

LEGISLATURE OF NEBRASKA
 ONE HUNDREDTH LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 463

FINAL READING

Introduced by Johnson, 37

Read first time January 17, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections
 2 25-12,123, 25-21,247, 27-504, 43-129, 43-146.03, 44-792,
 3 44-2804, 44-2902, 44-32,170, 44-4110, 46-604, 46-1201,
 4 46-1202, 46-1203, 46-1204.01, 46-1205, 46-1205.01,
 5 46-1207.01, 46-1209, 46-1210, 46-1213, 46-1214,
 6 46-1214.01, 46-1218, 46-1219, 46-1223, 46-1223.01,
 7 46-1224, 46-1225, 46-1227, 46-1229, 46-1230, 46-1231,
 8 46-1233, 46-1240, 46-1241, 54-311, 60-4,118.02, 60-6,261,
 9 69-302, 71-103, 71-105, 71-108, 71-111, 71-112.03,
 10 71-115.01, 71-117, 71-118, 71-120, 71-122, 71-124,
 11 71-124.01, 71-125, 71-128, 71-129, 71-133, 71-138,
 12 71-145, 71-147.01, 71-147.02, 71-148, 71-149, 71-150,
 13 71-152, 71-153, 71-154, 71-155, 71-155.01, 71-155.03,

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2 71-161.04, 71-161.06, 71-161.09, 71-161.10, 71-161.11,
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4 71-162.01, 71-162.03, 71-162.04, 71-162.05, 71-164,
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10 71-193.13, 71-193.14, 71-193.15, 71-193.17, 71-193.19,
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14 71-1,107.01, 71-1,107.03, 71-1,107.06, 71-1,107.07,
15 71-1,107.08, 71-1,107.09, 71-1,107.11, 71-1,107.13,
16 71-1,107.14, 71-1,107.15, 71-1,107.17, 71-1,107.18,
17 71-1,107.19, 71-1,107.20, 71-1,107.21, 71-1,107.23,
18 71-1,107.25, 71-1,107.28, 71-1,107.29, 71-1,132.01,
19 71-1,132.04, 71-1,132.06, 71-1,132.13, 71-1,132.14,
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21 71-1,132.24, 71-1,132.25, 71-1,132.26, 71-1,132.27,
22 71-1,132.28, 71-1,132.30, 71-1,132.31, 71-1,132.37,
23 71-1,132.38, 71-1,132.41, 71-1,133, 71-1,134, 71-1,135,
24 71-1,135.01, 71-1,135.03, 71-1,135.04, 71-1,135.05,
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3 71-1,141, 71-1,143.02, 71-1,143.03, 71-1,146.02,
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7 71-1,147.27, 71-1,147.28, 71-1,147.29, 71-1,147.30,
8 71-1,147.31, 71-1,147.32, 71-1,147.34, 71-1,147.36,
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13 71-1,147.64, 71-1,149, 71-1,152.01, 71-1,153, 71-1,157,
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16 77-3504, 81-2,281, and 81-6,102, Reissue Revised
17 Statutes of Nebraska, sections 12-1208, 25-21,188.02,
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1 71-3503, 71-3512, 71-3515.01, 71-3515.02, 71-3519,
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5 71-6117, 71-6118, 71-6119, 71-6120, 71-6121, 71-6122,
6 71-6123, 71-6721, 71-7427, 71-7436, 71-7454, 71-7457,
7 71-8709, 77-2704.09, 80-325, 81-657, and 81-2121, Revised
8 Statutes Cumulative Supplement, 2006, section 71-1,190,
9 Reissue Revised Statutes of Nebraska, as amended by
10 section 1178 of this legislative bill, sections 71-1734,
11 71-1748, 71-1752, 71-1756, and 71-1765, Reissue Revised
12 Statutes of Nebraska, as amended by sections 17, 20,
13 22, 24, and 27, respectively, Legislative Bill 185, One
14 Hundredth Legislature, First Session, 2007, sections
15 46-1235, 71-161.03, 71-193.18, 71-1,107.16, 71-1,135.02,
16 71-1,136, 71-1,147.45, 71-1340, 71-1341, and 71-6065,
17 Reissue Revised Statutes of Nebraska, as amended by
18 sections 210, 311, 329, 338, 341, 342, 351, 467,
19 468, and 649, respectively, Legislative Bill 296, One
20 Hundredth Legislature, First Session, 2007, section
21 71-6728, Reissue Revised Statutes of Nebraska, as amended
22 by section 2, Legislative Bill 283, One Hundredth
23 Legislature, First Session, 2007, sections 71-1707,
24 71-1722, 71-1723.01, 71-1723.02, 71-1724, 71-1724.01,
25 71-1726.01, 71-1729, 71-1730, 71-1731, 71-1735, 71-1749,

1 71-1755, 71-1757, 71-17,118, 71-17,119, 71-17,121,
2 71-17,128, 71-17,134, 71-17,135, 71-17,137, 71-17,138,
3 and 71-17,140, Revised Statutes Cumulative Supplement,
4 2006, as amended by sections 5, 6, 8, 9, 10, 11, 12,
5 14, 15, 16, 18, 21, 23, 25, 28, 29, 30, 34, 36, 37,
6 38, 39, and 41, respectively, Legislative Bill 185, One
7 Hundredth Legislature, First Session, 2007, sections
8 46-1217, 71-101, 71-102, 71-1,104.01, and 71-1,339,
9 Revised Statutes Cumulative Supplement, 2006, as amended
10 by sections 209, 296, 297, 333, and 362, respectively,
11 Legislative Bill 296, One Hundredth Legislature, First
12 Session, 2007, and section 6, Legislative Bill 296,
13 One Hundredth Legislature, First Session, 2007; to
14 transfer, rename, and change and eliminate provisions
15 of the Uniform Licensing Law; to transfer, rename,
16 and change and eliminate provisions relating to the
17 State Board of Health, advanced practice registered
18 nurses, alcohol and drug counseling, asbestos, athletic
19 training, audiology and speech-language pathology,
20 certified nurse midwifery, certified registered nurse
21 anesthetists, chiropractic, clinical nurse specialists,
22 cosmetology, electrology, esthetics, nail technology,
23 and body art, dentistry, emergency medical services,
24 environmental health specialists, funeral directing
25 and embalming, hearing aid instrument dispensers and

1 fitters, licensed practical nurses-certified, massage
2 therapy, medical nutrition therapy, medical radiographers
3 and limited radiographers, medication aides, medicine
4 and surgery, mental health practice, nurse assistants
5 and paid dining assistants, nurse practice, nurse
6 practitioners, nursing home administrators, occupational
7 therapy, optometry, pharmacy, physical therapy, podiatry,
8 psychology, radiation control, residential lead-based
9 paint, respiratory care, veterinary medicine and surgery,
10 water operators, and water wells; to provide and change
11 penalties; to harmonize provisions; to provide operative
12 dates; to repeal the original sections; and to outright
13 repeal sections 46-1219.01, 46-1220, 46-1222, 46-1226,
14 46-1232, 46-1235.02, 46-1236, 46-1237, 46-1237.03,
15 46-1240.02, 46-1240.03, 46-1240.04, 71-101.01, 71-106,
16 71-112.01, 71-119, 71-123, 71-132, 71-139.01, 71-140,
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17 71-1345, 71-1354, 71-1782, 71-1784, 71-1787, 71-1788,
18 71-1791, 71-1793, 71-1794, 71-3705, 71-3705.01, 71-3707,
19 71-3708, 71-3708.01, 71-3709, 71-3711, 71-3712, 71-3715,
20 71-4702.01, 71-4706, 71-4709.01, 71-4710, 71-4711,
21 71-4714, 71-4715.01, 71-4716, 71-4717, 71-4719, 71-5180,
22 71-5181, 71-5182, 71-51,100, 71-6057, 71-6061, 71-6064,
23 71-6066, 71-6067, 71-6109, 71-6110, 71-6111, and
24 71-6112, Reissue Revised Statutes of Nebraska, sections
25 46-1233.01, 71-139.02, 71-1,198, 71-1,360, 71-1,389,

1 71-375, 71-376, 71-377, 71-397, 71-3,145, 71-3,179,
2 71-1721.07, 71-17,130, and 71-17,141, Revised Statutes
3 Cumulative Supplement, 2006, section 71-1764, Reissue
4 Revised Statutes of Nebraska, as amended by section
5 26, Legislative Bill 185, One Hundredth Legislature,
6 First Session, 2007, sections 46-1235.01, 46-1237.01,
7 46-1237.02, 46-1240.05, 71-104, 71-139, 71-141, 71-142,
8 71-151, 71-161.07, 71-161.12, 71-161.17, 71-161.20,
9 71-165, 71-172.02, 71-188, 71-193.22, 71-1,107,
10 71-1,132.53, 71-1,154, 71-1,190.01, 71-1,206.05,
11 71-1,290, 71-1,341, 71-354, 71-3,173, 71-1333.01,
12 71-1710, 71-1745, 71-1774, 71-5192, 71-6053, 71-6059,
13 and 71-6068, Reissue Revised Statutes of Nebraska, as
14 amended by sections 211, 212, 213, 214, 298, 301, 302,
15 303, 305, 313, 314, 318, 319, 320, 323, 325, 331, 334,
16 340, 355, 356, 357, 360, 363, 365, 367, 466, 484, 486,
17 487, 603, 647, 648, and 650, respectively, Legislative
18 Bill 296, One Hundredth Legislature, First Session,
19 2007, sections 71-1723, 71-1726.02, 71-1737, 71-17,122,
20 71-17,123, 71-17,124, 71-17,129, and 71-17,139, Revised
21 Statutes Cumulative Supplement, 2006, as amended by
22 sections 7, 13, 19, 31, 32, 33, 35, and 40, respectively,
23 Legislative Bill 185, One Hundredth Legislature, First
24 Session, 2007, and sections 71-1,132.05, 71-1,142,
25 71-1,367, and 71-3,174, Revised Statutes Cumulative

LB 463

LB 463

1 Supplement, 2006, as amended by sections 339, 344,
2 364, and 368, respectively, Legislative Bill 296, One
3 Hundredth Legislature, First Session, 2007.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-101, Revised Statutes Cumulative
2 Supplement, 2006, as amended by section 296, Legislative Bill 296,
3 One Hundredth Legislature, First Session, 2007, is amended to read:

4 ~~71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to~~
5 ~~71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354 and the~~
6 ~~Physical Therapy Practice Act Sections 1 to 139 of this act and~~
7 ~~the following practice acts shall be known and may be cited as the~~
8 Uniform ~~Licensing Law- Credentialing Act:~~

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

- 1 Practice Act;
- 2 (15) The Licensed Practical Nurse-Certified Practice Act;
- 3 (16) The Massage Therapy Practice Act;
- 4 (17) The Medical Nutrition Therapy Practice Act;
- 5 (18) The Medical Radiography Practice Act;
- 6 (19) The Medicine and Surgery Practice Act;
- 7 (20) The Mental Health Practice Act;
- 8 (21) The Nurse Practice Act;
- 9 (22) The Nurse Practitioner Practice Act;
- 10 (23) The Nursing Home Administrator Practice Act;
- 11 (24) The Occupational Therapy Practice Act;
- 12 (25) The Optometry Practice Act;
- 13 (26) The Pharmacy Practice Act;
- 14 (27) The Physical Therapy Practice Act;
- 15 (28) The Podiatry Practice Act;
- 16 (29) The Psychology Practice Act;
- 17 (30) The Respiratory Care Practice Act;
- 18 (31) The Veterinary Medicine and Surgery Practice Act;
- 19 and
- 20 (32) The Water Well Standards and Contractors' Practice
- 21 Act.
- 22 If there is any conflict between any provision of
- 23 sections 1 to 139 of this act and any provision of a practice
- 24 act, the provision of the practice act shall prevail.
- 25 The Revisor of Statutes shall assign the Uniform

1 Credentialing Act, including the practice acts enumerated in
2 subdivisions (1) through (31) of this section, to consecutive
3 articles within Chapter 38.

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

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

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

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

14 (4) Department means the Division of Public Health of the
15 Department of Health and Human Services;

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

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

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

9 ~~(8) Lapse means the termination of the right or privilege~~
10 ~~to represent oneself as a licensed, certified, or registered person~~
11 ~~and to practice the profession when a license, certificate, or~~
12 ~~registration is required to do so;~~

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

20 ~~(10) Dependence means a compulsive or chronic need for~~
21 ~~or an active addiction to alcohol or any controlled substance or~~
22 ~~narcotic drug; and~~

23 ~~(11) Director means the Director of Public Health of the~~
24 ~~Division of Public Health.~~

25 Sec. 2. The Legislature recognizes the need for

1 regulation of persons and businesses providing health and
2 health-related services and environmental services. It is the
3 intent of the Legislature to provide for such regulation through
4 the Uniform Credentialing Act.

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

13 Sec. 4. (1) All rules and regulations adopted prior to
14 the operative date of this section under the Uniform Licensing
15 Law or other statutes amended or repealed by this legislative bill
16 shall continue to be effective under the Uniform Credentialing Act
17 to the extent not in conflict with the act.

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

25 (3) Any suit, action, or other proceeding, judicial or

1 administrative, which was lawfully commenced prior to the operative
2 date of this section under the Uniform Licensing Law or other
3 statutes amended or repealed by this legislative bill shall be
4 subject to the provisions of the Uniform Licensing Law or such
5 other statutes as they existed prior to the operative date of this
6 section.

7 Sec. 5. For purposes of the Uniform Credentialing Act,
8 unless the context otherwise requires, the definitions found in
9 sections 6 to 20 of this act apply.

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

14 Sec. 7. Alcohol or substance abuse means a maladaptive
15 pattern of alcohol or substance use leading to clinically
16 significant impairment or distress as manifested by one or more of
17 the following occurring at any time during the same twelve-month
18 period:

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

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

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

25 (4) Continued alcohol or substance use despite having

1 persistent or recurrent social or interpersonal problems caused or
2 exacerbated by the effects of the alcohol or substance use.

3 Sec. 8. Board means one of the boards appointed by
4 the State Board of Health pursuant to section 58 of this
5 act or appointed by the Governor pursuant to the Emergency
6 Medical Services Practice Act or the Water Well Standards and
7 Contractors' Practice Act. For professions for which there is no
8 board established by statute, the duties normally carried out by a
9 board are the responsibility of the department.

10 Sec. 9. Business means a person engaged in providing
11 services listed in subsection (3) of section 21 of this act.

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

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

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

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

1 registration.

2 Sec. 14. Department means the Division of Public Health
3 of the Department of Health and Human Services.

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

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

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

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

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

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

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

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

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

24 (5) A great deal of time is spent in activities necessary
25 to obtain alcohol or the substance, to use alcohol or the

1 substance, or to recover from the effects of use of alcohol
2 or the substance;

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

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

10 Sec. 16. Director means the Director of Public Health of
11 the Division of Public Health or his or her designee.

12 Sec. 17. Inactive credential means a credential which the
13 credential holder has voluntarily placed on inactive status and
14 by which action has terminated the right to practice or represent
15 himself or herself as having an active credential.

16 Sec. 18. License means an authorization issued by the
17 department to an individual to engage in a profession or to a
18 business to provide services which would otherwise be unlawful in
19 this state in the absence of such authorization.

20 Sec. 19. Profession means any profession or occupation
21 named in subsection (1) or (2) of section 21 of this act.

22 Sec. 20. Registry means a list of persons who offer a
23 specified service or activity.

24 Sec. 21. Section 71-102, Revised Statutes Cumulative
25 Supplement, 2006, as amended by section 297, Legislative Bill 296,

1 One Hundredth Legislature, First Session, 2007, is amended to read:

2 71-102 (1) No ~~person~~ individual shall engage in the
3 ~~practice of medicine and surgery, athletic training, respiratory~~
4 ~~care, osteopathic medicine, chiropractic, dentistry, dental~~
5 ~~hygiene, pharmacy, podiatry, optometry, massage therapy, physical~~
6 ~~therapy, audiology, speech-language pathology, embalming, funeral~~
7 ~~directing, psychology, veterinary medicine and surgery, medical~~
8 ~~nutrition therapy, acupuncture, mental health practice, or alcohol~~
9 ~~and drug counseling unless such person has obtained a license~~
10 ~~from the department for that purpose.~~ following practices unless
11 such individual has obtained a credential under the Uniform
12 Credentialing Act:

13 (a) Acupuncture;

14 (b) Advanced practice nursing;

15 (c) Alcohol and drug counseling;

16 (d) Asbestos abatement, inspection, project design, and
17 training;

18 (e) Athletic training;

19 (f) Audiology;

20 (g) Speech-language pathology;

21 (h) Body art;

22 (i) Chiropractic;

23 (j) Cosmetology;

24 (k) Dentistry;

25 (l) Dental hygiene;

- 1 (m) Electrology;
- 2 (n) Emergency medical services;
- 3 (o) Esthetics;
- 4 (p) Funeral directing and embalming;
- 5 (q) Hearing aid instrument dispensing and fitting;
- 6 (r) Lead-based paint abatement, inspection, project
7 design, and training;
- 8 (s) Licensed practical nurse-certified;
- 9 (t) Massage therapy;
- 10 (u) Medical nutrition therapy;
- 11 (v) Medical radiography;
- 12 (w) Medicine and surgery;
- 13 (x) Mental health practice;
- 14 (y) Nail technology;
- 15 (z) Nursing;
- 16 (aa) Nursing home administration;
- 17 (bb) Occupational therapy;
- 18 (cc) Optometry;
- 19 (dd) Osteopathy;
- 20 (ee) Pharmacy;
- 21 (ff) Physical therapy;
- 22 (gg) Podiatry;
- 23 (hh) Psychology;
- 24 (ii) Radon detection, measurement, and mitigation;
- 25 (jj) Respiratory care;

1 (kk) Veterinary medicine and surgery;
2 (ll) Public water system operation; and
3 (mm) Constructing or decommissioning water wells and
4 installing water well pumps and pumping equipment.

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

8 (a) Registered environmental health specialist;
9 (b) Certified marriage and family therapist;
10 (c) Certified professional counselor; or
11 (d) Social worker.

12 (3) No business shall operate for the provision of any
13 of the following services unless such business has obtained a
14 credential under the Uniform Credentialing Act:

15 (a) Body art;
16 (b) Cosmetology;
17 (c) Emergency medical services;
18 (d) Esthetics;
19 (e) Funeral directing and embalming;
20 (f) Massage therapy; or
21 (g) Nail technology.

22 ~~(2) No person shall hold himself or herself out as a~~
23 ~~certified social worker or certified master social worker unless~~
24 ~~such person has obtained a certificate from the department for that~~
25 ~~purpose.~~

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

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

7 Sec. 22. Section 71-105, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-105 Every initial credential to practice a profession~~
10 ~~or engage in a business shall be in the form of a document under~~
11 ~~the name and seal of the department and signed by the Director~~
12 ~~of Regulation and Licensure and director, the Governor, and the~~
13 ~~officers - It shall also be countersigned by the members of the~~
14 ~~appropriate professional board, if any. except that all credentials~~
15 ~~granted without examination may be issued by the department under~~
16 ~~its name and seal and signed by its director and the Governor. A~~
17 ~~copy of all credentials shall be retained in the department and~~
18 ~~given the same number as has been assigned to the credentialed~~
19 ~~person in the other records of the department.~~

20 Sec. 23. (1) The department shall establish and maintain
21 a record of all credentials issued pursuant to the Uniform
22 Credentialing Act. The record shall contain identifying information
23 for each credential holder and the credential issued pursuant to
24 the act.

25 (2) For individual credential holders engaged in a

1 profession:

2 (a) The record information shall include:

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

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

6 (iii) The school and date of graduation;

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

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

12 (vi) The status of the credential; and

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

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

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

22 (d) The record is a public record, except that social
23 security numbers shall not be public information but may be shared
24 as specified in subsection (5) of section 30 of this act.

25 (3) For credential holders engaged in a business:

- 1 (a) The record information shall include:
- 2 (i) The full name and address of the business;
- 3 (ii) The type of credential issued, the date the
- 4 credential was issued, the identifying name and number assigned
- 5 to the credential, and the basis on which the credential was
- 6 issued;
- 7 (iii) The status of the credential; and
- 8 (iv) A description of any disciplinary action against the
- 9 credential, including, but not limited to, the type of disciplinary
- 10 action, the effective date of the disciplinary action, and a
- 11 description of the basis for any such disciplinary action;
- 12 (b) The record may contain any additional information the
- 13 department deems appropriate to advance or support the purpose of
- 14 the Uniform Credentialing Act;
- 15 (c) The record may be maintained in computer files or
- 16 paper copies and may be stored on microfilm or in similar form; and
- 17 (d) The record is a public record.
- 18 (4) If the department is required to provide notice
- 19 or notify an applicant or credential holder under the Uniform
- 20 Credentialing Act, such requirements shall be satisfied by mailing
- 21 a written notice to such applicant or credential holder at his or
- 22 her last address of record.

23 Sec. 24. Section 71-107, Revised Statutes Cumulative
 24 Supplement, 2006, is amended to read:

25 ~~71-107~~ Every person credentialed under the Uniform

1 Licensing Law to practice a profession shall keep the credential
 2 available in an office or place in which he or she practices and
 3 shall show such proof of credentialing Credentialing Act shall
 4 make the person's current credential available upon request. The
 5 department, with the recommendation of the appropriate board, if
 6 any, shall determine how a consumer will be able to identify a
 7 credential holder. The method of identification shall be clear and
 8 easily accessed and used by the consumer.

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

23 Sec. 25. Section 71-145, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 ~~71-145~~ (1) Upon request and payment of the required

1 fee, the department shall provide certification of a credential
2 which shall include a certified statement that provides information
3 regarding the basis on which a credential was issued, the date of
4 issuance, and whether disciplinary action has been taken against
5 the credential. ~~The certification shall be issued under the name
6 and seal of the department.~~

7 (2) Upon request and payment of the required fee, the
8 department shall provide verification of a credential which shall
9 include written confirmation as to whether a credential is valid at
10 the time the request is made.

11 Sec. 26. Section 71-169, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-169 The Department of Health and Human Services
14 Regulation and Licensure shall promulgate necessary rules and
15 regulations and forms for carrying out the provisions of the
16 Uniform Licensing Law. It may also adopt rules and regulations
17 supplementing any of the provisions herein contained but not
18 inconsistent therewith.~~

19 To protect the health, safety, and welfare of the public
20 and to insure to the greatest extent possible the efficient,
21 adequate, and safe practice of health services, health-related
22 services, and environmental services:

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

25 (i) Specify minimum standards required for a credential,

1 including education, experience, and eligibility for taking the
2 credentialing examination;

3 (ii) Designate credentialing examinations, specify the
4 passing score on credentialing examinations, and specify standards,
5 if any, for accepting examination results from other jurisdictions;

6 (iii) Set continuing competency requirements in
7 conformance with section 45 of this act;

8 (iv) Set standards for waiver of continuing competency
9 requirements in conformance with section 46 of this act;

10 (v) Set standards for courses of study; and

11 (vi) Specify acts in addition to those set out in section
12 79 of this act that constitute unprofessional conduct; and

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

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

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

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

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

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

4 Sec. 27. Section 71-170, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-170~~ The department shall have printed in pamphlet
7 form available for each profession and business regulated under
8 the Uniform Credentialing Act the applicable statutes, rules,
9 and regulations relative to the credentials for the appropriate
10 profession or business. the following matter which is pertinent to
11 the particular profession for which such pamphlet is published: (1)
12 The law regulating the practice of the profession; (2) the rules of
13 the department relative to credentials; and (3) the rules relating
14 to examinations adopted by the department on the recommendation of
15 the professional board.

16 Sec. 28. Section 71-1,343, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-1,343~~ (1) It is the intent of the Legislature that
19 quality health care services and human services be provided to all
20 citizens of the state the public and basic standards be developed
21 to protect the public health and safety and that professions be
22 regulated by the state only when it is demonstrated that such
23 regulation is in the best interests of the public.

24 (2) The department shall periodically review each
25 credentialed profession and business to determine if continued

1 credentialing is needed to protect the public.

2 Sec. 29. Section 71-103, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~71-103 No person individual shall be licensed, certified,~~
5 ~~or registered to practice a profession issued a credential under~~
6 the Uniform Licensing Law Credentialing Act until he or she has
7 furnished satisfactory evidence to the department that he or she
8 is of good character and has attained the age of majority and
9 is of good moral character, nineteen years except as otherwise
10 specifically provided by statute, rule, or regulation. A credential
11 may only be issued to a citizen of the United States, an alien
12 lawfully admitted into the United States who is eligible for a
13 credential under the Uniform Credentialing Act, or a nonimmigrant
14 whose visa for entry, or application for visa for entry, is related
15 to such employment in the United States.

16 Sec. 30. Section 71-108, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-108 The name, date and place of birth, location~~
19 ~~or post office address, school and date of graduation, date~~
20 ~~of examination and ratings or grades received, and date of a~~
21 ~~credential if one is issued of all applicants for examination in~~
22 the several professions regulated by the Uniform Licensing Law
23 shall be entered in a record kept in the office of the department
24 to be known as the registry record. A separate registry record
25 shall be kept for each profession, the names of applicants in

1 that profession shall be given consecutive numbers, and all other
2 records relating to that application or the credential granted
3 pursuant to that application shall be given the same number. A
4 list shall also be kept of those granted credentials in the several
5 professions. Applications for a credential shall be upon forms
6 prepared by the department, and the completed applications shall
7 be kept as a part of the permanent files of the department.
8 If the applicant is an individual, the application shall include
9 the applicant's social security number. All applications based on
10 credentials granted in other states shall be received upon forms
11 prepared by the department and entered in the registry records
12 as nearly as may be in the same form as are those applying for
13 examinations. In addition, the date of credentialing and the length
14 of time of practice in the other state shall be given and entered.
15 An applicant for credentialing in this state shall not be required
16 to resubmit information previously submitted in connection with
17 an application for credentialing made in this state or another
18 jurisdiction unless requested by the department. The data in any
19 or all of such records may be maintained in computer files, placed
20 upon microfilm, or stored in a similar form. All such records,
21 in whatever form, shall be available for public inspection, as
22 defined by rules and regulations of the department. Investigational
23 records, reports, and files pertaining to an application shall not
24 be a public record until action is taken to grant or deny the
25 application and may be withheld from disclosure thereafter under

1 ~~section 84-712.05.~~ (1) An individual shall file an application
2 for a credential to practice a profession with the department
3 accompanied by the fee set pursuant to the Uniform Credentialing
4 Act. The application shall contain:

5 (a) The legal name of the applicant;
6 (b) The date and place of birth of the applicant;
7 (c) The address of the applicant;
8 (d) The social security number of the applicant or the
9 resident identification number of the applicant if the applicant is
10 not a citizen of the United States and is otherwise eligible to be
11 credentialed under section 29 of this act; and

12 (e) Any other information required by the department.

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

16 (a) The full name and address of the business;
17 (b) The full name and address of the owner of the
18 business;
19 (c) The name of each person in control of the business;
20 (d) The social security number of the business if the
21 applicant is a sole proprietorship; and

22 (e) Any other information required by the department.

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

25 (a) The owner or owners if the applicant is a sole

1 proprietorship, a partnership, or a limited liability company that
2 has only one member;

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

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

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

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

13 (4) Each credential holder under the Uniform
14 Credentialing Act shall notify the department of any change
15 to the address of record so that the department can update the
16 record of the credential holder under section 23 of this act.

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

22 Sec. 31. Section 71-104.01, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 ~~71-104.01~~ An applicant for an initial license to practice
25 a profession which is authorized to prescribe controlled substances

1 shall be subject to a criminal background check. The applicant
2 shall submit with the application a full set of fingerprints which
3 shall be forwarded to the Nebraska State Patrol to be submitted to
4 the Federal Bureau of Investigation for a national criminal history
5 record information check. The applicant shall authorize release of
6 the results of the national criminal history record information
7 check to the department. The applicant shall pay the actual cost
8 of the fingerprinting and criminal background check. This section
9 shall not apply to dentists who are applicants for temporary
10 practice rights under subdivision (5) of section 71-183.01 or to
11 physicians and surgeons who are applicants for temporary practice
12 rights under subdivision (9) of section 71-1,103. a dentist who is
13 an applicant for a dental locum tenens under section 455 of this
14 act or to a physician or osteopathic physician who is an applicant
15 for a physician locum tenens under section 694 of this act.

16 Sec. 32. Section 71-125, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-125~~ Any person desiring to take the an examination for
19 licensure or certification to practice a profession credentialing
20 purposes shall make application to the department or to the
21 organization specified by the department prior to examination on
22 a form provided by the department or such organization. Such
23 application shall be accompanied by the examination fee and such
24 documents and affidavits as are necessary to show the eligibility
25 of the candidate to take such examination. All applications shall

1 be in accordance with the rules and regulations of the department
2 or such organization. When a national or standardized examination
3 is required, the department may direct the applicant to apply
4 directly to the organization administering the examination to take
5 the examination.

6 Sec. 33. Section 71-128, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-128~~ The department shall prepare and keep up to date a
9 list of accredited colleges in which are taught maintain a list of
10 approved courses of study for the professions which are regulated
11 by the Uniform Licensing Law- Credentialing Act. The appropriate
12 ~~professional~~ board shall make recommendations relative thereto and
13 shall approve the list for the its profession. The department shall
14 approve the list for a profession if there is no appropriate board.
15 ~~for which it gives examinations.~~ No school course of study shall be
16 accredited approved without the formal action of the department and
17 or the appropriate board. Any ~~professional school or college~~ course
18 of study whose graduates or students desire to take the Nebraska
19 ~~state board~~ examination shall supply the department with the
20 necessary data to allow the board and the department to determine
21 whether that ~~school~~ course of study should be ~~accredited.~~ approved.
22 The department may adopt any national examination to constitute
23 part of or all of the licensure or certification examination for
24 any of the professions which are regulated by the Uniform Licensing
25 Law. Such examination shall be approved by the board as being a

1 ~~part of or all of the examination for licensure or certification.~~

2 Sec. 34. Section 71-133, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~71-133~~ (1) The oral or practical work portion of any
5 examination for licensure ~~or certification~~ a credential under the
6 Uniform Licensing Law shall Credentialing Act may be given by a
7 majority of the members of the appropriate professional board, the
8 department, or an organization approved by the appropriate board
9 or the department if there is no board. ~~except in dentistry.~~ The
10 oral examination questions shall be limited to the practice of
11 the profession. The members of the board need not be present at
12 the examination given to applicants when a national examination ~~or~~
13 any other written examination is utilized. Such board may delegate
14 the administration of such examination to the department. The
15 department may designate an organization to administer a national
16 ~~or written examination.~~

17 (2) The appropriate board may approve any national or
18 other examination to constitute part or all of the credentialing
19 examination for any of the professions which are regulated by
20 the Uniform Credentialing Act. In dentistry, the final practical
21 examination in clinical dentistry may be given at each of the
22 dental colleges, schools, or departments legally conducted in
23 the State of Nebraska. The Central Regional Dental Testing
24 Service practical examination or any other regional or state
25 practical examination that the Board of Dentistry determines to be

1 comparable to the Central Regional Dental Testing Service practical
2 examination may be used to meet the requirement of a final
3 practical examination for dentists and for dental hygienists. Any
4 person who applies for a license to practice dentistry or dental
5 hygiene who has failed on one occasion to pass the oral examination
6 administered by the board shall be required to subsequently take
7 and pass the practical examination before the department shall
8 consider the applicant's qualifications for a license to practice
9 dentistry or dental hygiene in the State of Nebraska. Any person
10 who applies for a license to practice dentistry or dental hygiene
11 who has failed on two occasions to pass any part of the examination
12 shall be required to complete a course in clinical dentistry
13 approved by the board before the department shall consider the
14 results of a third examination as a valid qualification for a
15 license to practice dentistry or dental hygiene in the State of
16 Nebraska.

17 Sec. 35. Section 71-129, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-129~~ Examinations for licensure or certification
20 credentialing shall be held on such dates and at such times and
21 places as set by the department or the organization specified by
22 approved by the appropriate board or the department. may set.
23 Such dates, times, and places as set by the department shall not
24 exceed four in any one year except (1) as provided in section
25 71-133 for dentistry or (2) in those professions when nonpractical

1 examinations are available for administration by either computers
2 or in written form on a more frequent basis. Examinations may
3 be held in any college or program or at any other location as
4 determined by the department or the organization specified by the
5 department. Any examination may be held concurrently in two or more
6 places to accommodate the applicants therefor. Special examinations
7 may be given at the expense of the applicant and administered by
8 the department, or the organization specified by the department, or
9 or the appropriate professional board.

10 Sec. 36. Section 71-131, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-131~~ (1) In the absence of any specific requirement or
13 provision relating to any particular profession:

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

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

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

6 (c) The department shall withhold from the licensure ~~or~~
7 ~~certification~~ credentialing fee submitted by an examinee the cost
8 of any national examination used when an examinee fails a licensure
9 ~~or certification~~ credentialing examination and shall return to
10 the examinee the remainder of the licensure ~~or certification~~
11 credentialing fee collected subject to section ~~71-162.05,~~ 56 of
12 this act, except that:

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

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

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

1 in an examination in jurisprudence of pharmacy.

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

9 (4) In professional counseling, the passing criterion for
10 such examination shall be established and may be changed by the
11 Board of Mental Health Practice by rule and regulation. The board
12 may exempt an applicant from the written examination if he or she
13 meets all of the requirements for certification without examination
14 pursuant to rules and regulations adopted and promulgated by the
15 department pursuant to section 71-139.

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

23 (6) Applicants for licensure in medicine and surgery
24 and osteopathic medicine and surgery shall pass the licensing
25 examination. An applicant who fails to pass any part of the

1 licensing examination within four attempts shall complete one
2 additional year of postgraduate medical education at an accredited
3 school or college of medicine or osteopathic medicine. All parts
4 of the licensing examination shall be successfully completed within
5 seven years, except that if the applicant has been enrolled in a
6 combined doctorate of medicine and doctorate of philosophy degree
7 program in an accredited school or college of medicine, all parts
8 of the licensing examination shall be successfully completed within
9 ten years. An applicant who fails to successfully complete the
10 licensing examination within the time allowed shall retake that
11 part of the examination which was not completed within the time
12 allowed.

13 (7) In medical nutrition therapy, the passing criterion
14 for such examination shall be established and may be changed by
15 the Board of Medical Nutrition Therapy by rule and regulation. Such
16 examination shall test for the essential clinical elements of the
17 field of medical nutrition therapy. The board shall base all of its
18 actions on broad categorical parameters derived from the essential
19 elements of the field of medical nutrition therapy and shall not
20 endorse nor restrict its assessment to any particular nutritional
21 school of thought. The board may exempt an applicant from the
22 written examination if he or she meets all of the requirements for
23 licensure without examination pursuant to section 71-1,291 or rules
24 and regulations adopted and promulgated by the department pursuant
25 to section 71-139.

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

8 Sec. 37. Section 71-138, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-138~~ (1) All question and answer sheets questions,
11 the answer key, and the examinees' answers connected with any
12 examination for licensure ~~or certification~~ credentialing shall be
13 maintained by the department, national organization, or testing
14 service for a period of two years from the date of administration
15 of the examination.

16 (2) When national examinations that are governed by
17 security considerations are utilized, they shall be available from
18 the developing testing service for a period of two years, during
19 which time such question and answer sheets shall be open to
20 inspection by an applicant or his or her designee. Question and
21 answer sheets for any national machine-graded or computer-scored
22 examination which are protected by security agreements, copyright
23 provisions, or departmental or state contractual agreements for
24 use shall not be required to be on file with the department
25 but shall be available for a period of two years, upon demand,

1 from any testing service utilized, at the discretion of the
 2 department or upon order of a court of competent jurisdiction.
 3 are accepted for credentialing, the department shall obtain from
 4 the national organization or testing service documentation that
 5 the examination development and maintenance process meets generally
 6 accepted standards for test development and maintenance.

7 ~~(2)~~ (3) The department, ~~upon~~ with the recommendation of
 8 the professional appropriate board, may: adopt and promulgate rules
 9 and regulations:

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

19 (b) ~~To specify licensure or certification~~ (a) Specify
 20 credentialing examination application procedures; ~~including the~~
 21 ~~date, time, and place of examination and the deadline for making~~
 22 ~~such application;~~

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

25 (d) ~~To govern~~ (c) Provide for the administration of

1 all or separate components of examinations; and for licensure or
2 certification.

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

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

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

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

20 Sec. 38. The department may inspect or provide for
21 the inspection of any business credentialed or applying for a
22 credential under the Uniform Credentialing Act. The department
23 shall issue an inspection report and provide a copy of the report
24 to the business within ten working days after the completion of an
25 inspection.

1 Sec. 39. The department may request the State Fire
2 Marshal to inspect any business credentialed or applying for a
3 credential under the Uniform Credentialing Act for fire safety
4 pursuant to section 81-502. The State Fire Marshal shall assess a
5 fee for such inspection pursuant to section 81-505.01 payable by
6 such business. The State Fire Marshal may delegate such authority
7 to make such inspections to qualified local fire prevention
8 personnel pursuant to section 81-502.

9 Sec. 40. Every business credentialed under the Uniform
10 Credentialing Act shall report to the department the name of every
11 person without a credential that he or she has reason to believe is
12 engaged in practicing any profession or operating any business for
13 which a credential is required by the Uniform Credentialing Act.
14 The department may, along with other law enforcement agencies,
15 investigate such reports or other complaints of unauthorized
16 practice or unauthorized operation of a business. The appropriate
17 board may issue an order to cease and desist the unauthorized
18 practice of such profession or unauthorized operation of such
19 business as a measure to obtain compliance with the applicable
20 credentialing requirements by the person or business prior to
21 referral of the matter to the Attorney General for action. For
22 businesses that do not have a board, the department may issue such
23 cease and desist orders. Practice of such profession or operation
24 of such business without a credential after receiving a cease and
25 desist order is a Class III felony.

1 Sec. 41. Section 71-124.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-124.01~~ Whenever the department deems it necessary to
4 appoint an inspector or investigator to assist it in performing
5 its duty, the department may appoint a person who ~~is actively~~
6 ~~engaged in such~~ holds an active credential in the appropriate
7 profession or any other qualified person who has been trained
8 in investigational procedures and techniques to serve as such
9 inspector or investigator, ~~with the consent and approval of the~~
10 ~~appropriate professional board when applicable,~~ except that only a
11 licensed pharmacist who is or who has been engaged in the active
12 practice of pharmacy as defined in subdivision (1) of section
13 71-1,142 shall be appointed by the department to serve as a
14 pharmacy inspector with the consent and approval of the Board of
15 Pharmacy.

16 Sec. 42. Section 71-110, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-110~~ (1) The credential to practice a profession shall
19 be renewed biennially ~~without examination~~ upon request of the
20 credentialed person and upon documentation of continuing competency
21 pursuant to sections ~~71-161.09 and 71-161.10.~~ 45 and 46 of this
22 act. The ~~biennial credential~~ renewals provided for in this section
23 shall be accomplished in such manner and on such date as the
24 department, with the approval of the designated professional
25 recommendation of the appropriate board, shall may establish. by

1 ~~rule and regulation. The biennial expiration date in the different~~
2 ~~professions shall be as follows:~~

3 ~~(a) January, pharmacy and psychology;~~

4 ~~(b) February, funeral directing and embalming;~~

5 ~~(c) March, dentistry and dental hygiene;~~

6 ~~(d) April, podiatry and veterinary medicine and surgery;~~

7 ~~(e) May, athletic training and acupuncture;~~

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

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

10 ~~(h) September, alcohol and drug counseling, medical~~
11 ~~nutrition therapy, mental health practice including any associated~~
12 ~~certification, and osteopathic medicine;~~

13 ~~(i) October, medicine and surgery;~~

14 ~~(j) November, massage therapy and physical therapy; and~~

15 ~~(k) December, audiology and speech-language pathology.~~

16 The request for renewal need not be in any particular
17 ~~form~~ shall include all information required by the department and
18 shall be accompanied by the renewal fee. Such fee shall be paid not
19 later than the date of the expiration of such credential, except
20 that while persons actively engaged in the military service of
21 the United States, as defined in the Soldiers' and Sailors' Civil
22 Relief Act of 1940, Servicemembers Civil Relief Act, 50 U.S.C. App.
23 501 et seq., as the act existed on January 1, 2007, 2002, persons
24 ~~credentialed to practice the professions listed in this subsection~~
25 shall not be required to pay the renewal fee.

1 (2) When a person credentialed pursuant to the Uniform
2 Licensing Law desires to have his or her credential lapse upon
3 expiration, he or she shall notify the department of such desire
4 in writing. The department shall notify the credentialed person
5 in writing of the acceptance or denial of the request to allow
6 the credential to lapse. When the lapsed status becomes effective,
7 At least thirty days before the expiration of a credential, the
8 department shall notify each credentialed person at his or her
9 last address of record. If a credentialed person fails to notify
10 the department of his or her desire to have his or her credential
11 placed on inactive status upon its expiration, fails to meet the
12 requirements for renewal on or before the date of expiration of
13 his or her credential, or otherwise fails to renew his or her
14 credential, it shall expire. When a person's credential expires,
15 the right to represent himself or herself as a credentialed person
16 and to practice the profession in which a license credential is
17 required shall terminate. Any credentialed person who fails to
18 renew the credential by the expiration date and desires to resume
19 practice of the profession shall apply to the department for
20 reinstatement of the credential. To restore the credential from
21 lapsed to active status, such person shall be required to meet the
22 requirements for initial credentialing which are in effect at the
23 time that he or she wishes to restore the credential.

24 (3) When a person credentialed pursuant to the Uniform
25 Licensing Law Credentialing Act desires to have his or her

1 credential placed on inactive status, ~~upon its expiration,~~ he
2 or she shall notify the department of such desire in writing,
3 and pay the inactive status fee. The department shall notify the
4 credentialed person in writing of the acceptance or denial of the
5 request to allow the credential to be placed on inactive status.
6 When the credential is placed on inactive status, the credentialed
7 person shall not engage in the practice of such profession, but
8 he or she may represent himself or herself as having an inactive
9 credential. A credential may remain on inactive status for an
10 indefinite period of time. In order to move a credential from
11 inactive to active status, a person shall be required to meet the
12 requirements for renewal which are in effect at the time he or she
13 wishes to regain active status.

14 (4) At least thirty days before the expiration of a
15 credential, the department shall notify each credentialed person
16 by a letter addressed to him or her at his or her last place of
17 residence as noted upon its records. Any credentialed person who
18 fails to notify the department of his or her desire to let his
19 or her credential lapse or be placed on inactive status upon its
20 expiration or who fails to meet the requirements for renewal on
21 or before the date of expiration of his or her credential shall
22 be given a second notice in the same manner as the first notice
23 advising him or her (a) of the failure to meet the requirements for
24 renewal, (b) that the credential has expired, (c) that the person
25 is subject to an administrative penalty under section 71-164.01 if

1 he or she practices after the expiration date and prior to renewal
2 of the credential, (d) that upon the receipt of the renewal fee
3 and the required late fee within thirty days after the expiration
4 date, no order of revocation will be entered, and (e) that upon the
5 failure to comply with subdivision (d) of this subsection within
6 such time, the credential will be revoked in the manner prescribed
7 in section 71-149.

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

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

22 Sec. 43. Section 71-110.01, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-110.01 (1) The department may provide for the renewal
25 of a credential to engage in a business as an apprentice training

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

19 (2) At least thirty days before the expiration of a
20 credential, the department shall notify each credentialed entity
21 by a letter addressed to the place of business as noted upon
22 the department's records. Any credentialed entity which fails to
23 pay the renewal fee business at its last address of record. If a
24 credentialed business fails to meet the renewal requirements on or
25 before the date of expiration of the credential, the credential

1 shall expire. When a credential expires, the right to operate
2 the business shall terminate. A business which fails to renew
3 its credential by the expiration date shall apply for and obtain
4 another credential prior to operating the business. shall be given
5 a second notice in the same manner as the first notice advising
6 the entity (a) of the failure to pay the renewal fee, (b) that
7 the credential has expired, (c) that the entity is subject to
8 an administrative penalty under section 71-164.01 if the entity
9 engages in business after the expiration date and prior to renewal,
10 reinstatement, or issuance of a credential, (d) that upon the
11 receipt of the renewal fee and the required late fee within thirty
12 days after the expiration date, no order of revocation will be
13 entered, and (e) that upon the failure to receive the fees, the
14 credential will be revoked in the manner prescribed in section
15 71-149.

16 Sec. 44. Section 71-149, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-149 (1) The department shall automatically revoke,
19 without further notice or hearing, the credential of any person
20 who fails, within thirty days after by the expiration date of
21 such credential, to pay the required renewal fee, or to submit
22 documentation of continuing competency, or to pay the required late
23 fee, and the department shall make proper record of such revocation
24 shall automatically expire without further notice or hearing.

25 (2) The department shall revoke, refuse to renew after

1 notice and opportunity for hearing, the credential of any person
2 who fails, ~~within thirty days after~~ by the expiration date of
3 such credential, to meet the applicable continuing competency
4 requirement for renewal.

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

11 Sec. 45. Section 71-161.09, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-161.09~~ (1) ~~Each professional~~ The appropriate board
14 shall establish continuing competency requirements for persons
15 engaged in the active practice of the health care profession or
16 occupation for which the board was designated, seeking renewal of
17 a credential.

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

25 (3) ~~The~~ Each board shall consult with the department and

1 the appropriate professional academies, professional societies, and
2 professional associations in the development of such requirements.
3 The requirements shall be established in rules and regulations
4 approved by the board and adopted and promulgated by the
5 department.

6 (4) (a) For a profession ~~or occupation~~ for which there
7 are no continuing education requirements on December 31, 2002,
8 the requirements may include, but not be limited to, any one or
9 a combination of the continuing competency activities listed in
10 subsection (5) of this section.

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

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

21 (a) Continuing education;

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

24 (c) Board certification in a clinical specialty area;

25 (d) Professional certification;

- 1 (e) Self-assessment;
- 2 (f) Peer review or evaluation;
- 3 (g) Professional portfolio;
- 4 (h) Practical demonstration;
- 5 (i) Audit;
- 6 (j) Exit interviews with consumers;
- 7 (k) Outcome documentation;
- 8 (l) Testing;
- 9 (m) Refresher courses;
- 10 (n) Inservice training;
- 11 (o) Practice requirement; or
- 12 ~~(e)~~ (p) Any other similar modalities.

13 Sec. 46. Section 71-161.10, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-161.10~~ (1) Each ~~credentialed~~ person in active practice
16 holding an active credential within the state shall, on or
17 before the date of expiration of his or her credential, ~~complete~~
18 ~~the requirements to document compliance~~ comply with continuing
19 competency requirements for his or her profession, ~~or occupation~~
20 as specified by rules and regulations approved by the designated
21 professional board and adopted and promulgated by the department
22 pursuant to section 71-161.09. Except as otherwise provided in
23 this section, the department shall not renew the credential of any
24 person who has not complied with such requirements. ~~Procedures for~~
25 ~~nonrenewal of the credential due to failure to document compliance~~

1 with continuing competency requirements shall be identical to those
2 for nonpayment of renewal fees as provided in sections 71-110 and
3 71-149, as well as procedures for reinstatement of the same. In
4 cases other than nonrenewal, the procedures in sections 71-149 and
5 71-150 for refusal to renew shall apply.

6 (2) The department, on the recommendation of the
7 designated professional board, may waive continuing competency
8 requirements, in whole or in part, upon submission by a
9 credentialed person credential holder of documentation that
10 circumstances beyond his or her control have prevented completion
11 of such requirements. Such circumstances shall include, but not be
12 limited to: situations in which:

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

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

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

23 (d) (b) The credentialed person credential holder was
24 first credentialed within the credentialing period immediately
25 preceding the renewal date; or -

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

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

8 ~~(2) (3) Each credentialed person credential holder shall~~
9 ~~be responsible for maintaining in his or her personal files~~
10 ~~such certificates or records of continuing competency activities.~~
11 ~~received from approved providers.~~

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

21 ~~Sec. 47. (1) Any person who desires to reinstate a~~
22 ~~credential after the date of expiration or from inactive to~~
23 ~~active status shall apply to the department for reinstatement.~~
24 ~~The credential may be reinstated upon the receipt of evidence of~~
25 ~~meeting the renewal requirements, or the requirements specified~~

1 under the practice act for the appropriate profession, which are in
2 effect at the time the credential holder applies to regain active
3 status and payment of reinstatement and renewal fees if applicable.

4 (2) The department, with the recommendation of the
5 appropriate board, may deny an application for reinstatement or
6 may issue the credential subject to any of the terms of section 96
7 of this act if the applicant has committed any of the acts set out
8 in section 78 of this act.

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

13 Sec. 48. Section 71-161.04, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-161.04~~ (1) A person ~~credentialed~~ by the department
16 whose credential has been suspended or has had limitations placed
17 thereon for any reason specified in sections ~~71-147~~ and ~~71-148~~ may
18 ~~petition the appropriate professional board to recommend the 78 and~~
19 79 of this act may apply for reinstatement of the credential at
20 any time. The application shall include such information as may be
21 required by the department.

22 (2) A person ~~credentialed~~ by the department whose
23 credential has been revoked for any reason specified in
24 such sections may ~~petition the board to recommend~~ apply for
25 reinstatement of the credential after a period of two years has

1 elapsed from the date of revocation. The application shall include
2 such information as may be required by the department.

3 Sec. 49. Section 71-161.06, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-161.06~~ A petition for reinstatement of a license,
6 certificate, or registration shall be considered at the next
7 meeting of the board that is held not earlier than thirty days
8 after the petition was filed. No public hearing need be held
9 on the petition if the board recommends reinstatement of the
10 license, certificate, or registration. Opportunity for a formal
11 public hearing on the petition shall be granted by the board, if
12 formally requested by the petitioner, prior to any recommendation
13 by the board against reinstatement. Any petition for reinstatement
14 accompanied by the requisite information and necessary documents
15 shall be conclusively acted upon by the board within one hundred
16 eighty days after the filing of the properly prepared petition and
17 necessary accompanying documents with the board. If the petitioner
18 formally requests opportunity for a formal public hearing thereon
19 or if the board otherwise holds such a hearing, the petitioner
20 shall be given at least thirty days' prior notice thereof by
21 sending a copy of the notice of hearing by means of certified or
22 registered mail directed to the petitioner at his or her last-known
23 residence or business post office address as shown by the files or
24 records of the Department of Health and Human Services Regulation
25 and Licensure or as otherwise known or by means of personal service

1 by being personally served by any sheriff or constable or by
2 any person especially appointed by the board. The hearing may be
3 continued from time to time as the board finds necessary.

4 (1) Upon receipt of an application under section 48 of
5 this act for reinstatement of a credential in a profession that
6 has a board, the application shall be sent to the board for
7 consideration. Any application for reinstatement, accompanied by
8 the required information and documentation, shall be acted upon by
9 the board within one hundred eighty days after the filing of the
10 completed application.

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

13 (a) Conduct an investigation to determine if the
14 applicant has committed acts or offenses prohibited by section 78
15 of this act;

16 (b) Require the applicant to submit to a complete
17 diagnostic examination at the expense of the applicant by one
18 or more physicians or other qualified professionals appointed by
19 the board, the applicant being free also to consult a physician or
20 physicians or other professionals of his or her own choice for an
21 evaluation or diagnostic examination and to make available a report
22 or reports thereof to the department and the appropriate board;

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

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

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

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

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

16 (4) The decision of the board shall become final thirty
17 days after mailing the decision to the applicant unless the
18 applicant requests a hearing within such thirty-day period. If
19 the applicant requests a hearing before the board, the department
20 shall mail notice of the date, time, and location of the hearing
21 to the applicant at least thirty days prior to the hearing. If
22 the applicant has been afforded a hearing or an opportunity for a
23 hearing on an application for reinstatement within two years prior
24 to filing the current application, the department may grant or
25 deny such application without another hearing before the board. The

1 affirmative vote of a majority of the members of the board shall
2 be necessary to recommend reinstatement of a credential with or
3 without terms, conditions, or restrictions.

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

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

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

25 (6) The director's decision may be appealed by any party

1 to the decision. The appeal shall be in accordance with the
2 Administrative Procedure Act.

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

6 Sec. 50. (1) Upon receipt of an application for
7 reinstatement of a credential in a profession that does not have a
8 board, the application shall be considered by the department.

9 (2) The department may:

10 (a) Conduct an investigation to determine if the
11 applicant has committed acts or offenses prohibited by section 78
12 of this act;

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

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

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

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

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

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

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

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

1 Sec. 51. Section 71-162, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-162~~ (1) It is the intent of the Legislature that the
4 revenue to cover the cost of the credentialing system administered
5 by the department is to be derived from General Funds, cash
6 funds, federal funds, gifts, grants, or fees from individuals or
7 ~~entities~~ businesses seeking credentials. The credentialing system
8 includes the totality of the credentialing infrastructure and the
9 process of issuance and renewal of credentials, examinations,
10 inspections, investigations, continuing competency, compliance
11 assurance, and the credentialing review process for ~~the following~~
12 individuals and ~~entities~~ businesses that provide health services,
13 and health-related services, and environmental services. +

14 ~~(a) Individuals in the practice of acupuncture; advanced~~
15 ~~practice nursing; alcohol and drug counseling; asbestos abatement;~~
16 ~~inspection; project design; and training; athletic training;~~
17 ~~audiology; speech-language pathology; chiropractic; dentistry;~~
18 ~~dental hygiene; environmental health; hearing aid instrument~~
19 ~~dispensing and fitting; lead-based paint abatement; inspection;~~
20 ~~project design; and training; medical nutrition therapy; medical~~
21 ~~radiography; medication aide services; medicine and surgery;~~
22 ~~mental health practice; nursing; nursing assistant or paid dining~~
23 ~~assistant services; nursing home administration; occupational~~
24 ~~therapy; optometry; osteopathic medicine; pharmacy; physical~~
25 ~~therapy; podiatry; psychology; radon detection; measurement;~~

1 and mitigation, respiratory care, social work, swimming pool
2 operation, veterinary medicine and surgery, water system operation,
3 constructing or decommissioning water wells and installing water
4 well pumps and pumping equipment, and

5 ~~(b) Individuals in the practice of and entities in the~~
6 ~~business of body art, cosmetology, electrology, emergency medical~~
7 ~~services, esthetics, funeral directing and embalming, massage~~
8 ~~therapy, and nail technology.~~

9 (2) The department shall determine the cost of the
10 credentialing system for such individuals and entities businesses
11 by calculating the total of the base costs, the variable costs, and
12 any adjustments as provided in sections ~~71-162.01 to 71-162.03.~~ 52
13 to 54 of this act.

14 (3) When fees are to be established pursuant to section
15 ~~71-162.04~~ 55 of this act for individuals or entities businesses
16 other than individuals in the practice of constructing or
17 decommissioning water wells and installing water well pumps and
18 pumping equipment, the department, ~~upon~~ with the recommendation
19 of the appropriate board if applicable, shall base the fees on
20 the cost of the credentialing system and shall include usual and
21 customary cost increases, a reasonable reserve, and the cost of
22 any new or additional credentialing activities. For individuals in
23 the practice of constructing or decommissioning water wells and
24 installing water well pumps and pumping equipment, the Water Well
25 Standards and Contractors' Licensing Board shall establish the fees

1 as otherwise provided in this subsection. All such fees shall be
2 ~~collected~~ used as provided in section ~~71-163-~~ 57 of this act.

3 Sec. 52. Section 71-162.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-162.01~~ Base costs of credentialing are the costs that
6 are common to all professions and ~~occupations~~ businesses listed in
7 section ~~71-162~~ 21 of this act and include the following:

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

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

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

16 (4) Costs of the Licensee Assistance Program under
17 ~~sections 71-172.01 and 71-172.02;~~ section 75 of this act;

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

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

23 Sec. 53. Section 71-162.02, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 ~~71-162.02~~ Variable costs of credentialing are the costs

1 that are unique to a specific profession or ~~occupation~~ business
2 listed in section ~~71-162~~ 21 of this act and include the following:

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

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

8 (3) Costs for travel by members of the appropriate board
9 and employees of the department related to a particular profession
10 or ~~occupation~~, business, including car rental, gas, and mileage
11 charges but not salaries;

12 (4) Costs to operate and administer the Nebraska Center
13 for Nursing, which costs shall be derived from credentialing fees
14 of registered and practical nurses in accordance with section
15 71-1798.01; and

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

18 Sec. 54. Section 71-162.03, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-162.03~~ Adjustments to the cost of credentialing
21 include, but are not limited to:

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

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

- 1 (b) Certification and verification of credentials;
- 2 ~~(c) Late fees;~~
- 3 ~~(d) (c) Administrative fees;~~
- 4 ~~(e) (d) Reinstatement fees;~~
- 5 ~~(f) (e) General Funds and federal funds;~~
- 6 ~~(g) (f) Fees for miscellaneous services, such as~~
 7 production of photocopies, lists, labels, and diskettes;
- 8 ~~(h) (g) Gifts; and~~
- 9 ~~(i) (h) Grants; and~~
- 10 (2) Transfers to other funds for costs related to the
- 11 Nebraska Regulation of Health Professions Act and section ~~71-1,343-~~
- 12 28 of this act.

13 Sec. 55. Section 71-162.04, Reissue Revised Statutes of
 14 Nebraska, is amended to read:

15 ~~71-162.04~~ (1) The department, ~~upon~~ with the
 16 recommendation of the appropriate board if applicable, or
 17 the Water Well Standards and Contractors' Licensing Board as
 18 provided in section ~~71-162,~~ 51 of this act, shall adopt and
 19 promulgate rules and regulations to establish and collect the fees
 20 for the following credentials:

- 21 (a) Initial credentials, which include, but are not
- 22 limited to:
 - 23 (i) Licensure, certification, or registration;
 - 24 (ii) Add-on or specialty credentials;
 - 25 (iii) Temporary, provisional, or training credentials;

1 and

2 (iv) Supervisory or collaborative relationship
3 credentials;

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

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

8 (d) Inspections and reinspections.

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

16 Sec. 56. Section 71-162.05, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-162.05~~ (1) The department shall retain a
19 twenty-five-dollar administrative fee from each credentialing
20 fee established under section ~~71-162.04~~ 55 of this act for a denied
21 credential or a withdrawn application, except that (a) if the
22 credentialing fee is less than twenty-five dollars, the fee shall
23 be forfeited and (b) an examination fee shall not be returned.

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

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

3 (b) Twenty-five dollars for certification of a credential
4 pursuant to section ~~71-145~~, 25 of this act;

5 (c) Five dollars for verification of a credential
6 pursuant to section ~~71-145~~, 25 of this act; and

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

16 ~~(e) (d) A late reinstatement fee of thirty-five dollars
17 in addition to the renewal fee to reinstate a an expired or
18 inactive credential for professions and occupations specified in
19 section 21 of this act. ~~71-102 or regulated under the Nebraska
20 Cosmetology Act, the Occupational Therapy Practice Act, or sections
21 71-4701 to 71-4719 or 71-6053 to 71-6068 not more than one year
22 after the date of revocation for failure to meet the renewal
23 requirements;~~~~

24 ~~(f) A late fee of seventy-five dollars in addition to
25 the renewal fee to reinstate a credential for professions and~~

1 occupations specified in section 71-102 or regulated under the
2 Nebraska Cosmetology Act, the Occupational Therapy Practice Act, or
3 sections 71-4701 to 71-4719 or 71-6053 to 71-6068 more than one
4 year after the date of revocation for failure to meet the renewal
5 requirements; and

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

8 Sec. 57. Section 71-163, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 ~~71-163~~ (1) The Professional and Occupational
11 Credentialing Cash Fund is created. Except as provided in
12 ~~sections 71-172.02 and section~~ 71-17,113, the fund shall consist of
13 all fees, gifts, grants, and other money, excluding fines and civil
14 penalties, received or collected by the department under sections
15 ~~71-162 to 71-162.05.~~ 51 to 56 of this act.

16 (2) The department shall use the fund for the
17 administration and enforcement of such laws regulating the
18 individuals and ~~entities~~ businesses listed in section ~~71-162~~ 21
19 of this act except for a percentage of the fees credited to the
20 Nebraska Regulation of Health Professions Fund pursuant to section
21 71-6228.

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

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

4 Sec. 58. Section 71-111, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-111~~ (1) The State Board of Health shall appoint
7 members to the professional boards designated in section 71-112 for
8 each of the professions under the Uniform Licensing Law, 67 of this
9 act except the Board of Emergency Medical Services and the Water
10 Well Standards and Contractors' Licensing Board.

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

15 Sec. 59. Section 71-117, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-117~~ The regular (1) Any person who desires to be
18 considered for an appointment to a board appointed by the State
19 Board of Health and who possesses the necessary qualifications for
20 such appointment may apply in a manner specified by the State
21 Board of Health. The State Board of Health shall consider such
22 applications and may appoint any qualified person so applying to
23 the appropriate board.

24 (2) A state association or society, or its managing
25 board, for each profession may submit each year to the State Board

1 of Health a list of ~~five~~ persons of recognized ability in such
2 profession who have the qualifications prescribed for professional
3 members of the ~~professional~~ board for that particular profession.
4 ~~Each professional member of the Board of Pharmacy shall be the~~
5 ~~recipient of a diploma of graduation from an accredited school or~~
6 ~~college of pharmacy.~~ If such a list is submitted, the State Board
7 of Health shall consider the names on such list and may appoint one
8 of the persons so named. ~~Any person who desires to be considered~~
9 ~~for an appointment to a professional board and who possesses the~~
10 ~~necessary qualifications for such appointment may apply on a form~~
11 ~~provided by the State Board of Health any time prior to October~~
12 ~~1 of each year.~~ The State Board of Health shall consider such
13 applications and may appoint any qualified person so applying to
14 the professional board, even though such person is not named on a
15 list submitted by the association or society.

16 Sec. 60. Section 71-118, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-118~~ (1) The State Board of Health shall have power
19 to remove from office at any time any member of a ~~professional~~
20 ~~board~~ for which it appoints the membership, after a public hearing
21 pursuant to ~~the provisions of~~ the Administrative Procedure Act, for
22 physical or mental incapacity to carry out the duties of a board
23 member, for continued neglect of duty, for incompetency, for acting
24 beyond the individual member's scope of authority, for malfeasance
25 in office, for not maintaining the qualifications established in

1 sections 64 and 65 of this act, for any cause for which a
2 credential in the profession or business involved may be suspended
3 or revoked under section 71-147 or 71-148, 78 or 79 of this act, or
4 for a lack of a credential in the profession or business involved.

5 (2) The State Board of Health shall have full access
6 to such complaints or investigational records as necessary and
7 appropriate in the discharge of its duties under subsection (1) of
8 this section and section 58 of this act.

9 Sec. 61. Section 71-112.03, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-112.03 (1) The purpose of each professional board
12 is to: (1) Provide for the health, safety, and welfare of
13 the citizens; (2) insure that licensees or certificate holders
14 -serving the public meet minimum standards of proficiency and
15 competency; and (3) control the profession in the interest of
16 consumer protection protect the health, safety, and welfare of the
17 public as prescribed in the Uniform Credentialing Act.

18 (2) The duties of each board include, but are not
19 limited to, (a) setting the minimum standards of proficiency and
20 competency in accordance with section 26 of this act, (b) providing
21 recommendations in accordance with section 49 of this act, (c)
22 providing recommendations related to the issuance or denial of
23 credentials, disciplinary action, and changes in legislation, and
24 (d) providing the department with recommendations on regulations to
25 carry out the Uniform Credentialing Act in accordance with section

1 26 of this act.

2 (3) Each board may appoint advisory committees or other
3 advisory bodies as necessary for specific purposes. At least one
4 board member shall serve on each advisory committee or body, and
5 other members may be appointed from outside the board.

6 Sec. 62. Section 71-113, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-113 Except as otherwise provided in the Uniform
9 Credentialing Act:

10 (1) Each ~~professional~~ board shall consist of four
11 members;

12 (2) Each board shall have at least one public member; and

13 (3) If a board has eleven or more members, it shall
14 have at least three public members. ~~including one public member,~~
15 ~~except as otherwise provided in this section. A public member of a~~
16 ~~professional board (a) shall be a resident of this state who has~~
17 ~~attained the age of majority, (b) shall represent the interests and~~
18 ~~viewpoints of consumers, and (c) shall not be a present or former~~
19 ~~member of a credentialed profession, an employee of a member of a~~
20 ~~credentialed profession, or an immediate family or household member~~
21 ~~of any person presently regulated by such board.~~

22 ~~(2)(a) In audiology and speech-language pathology the~~
23 ~~board shall consist of five members, including at least one public~~
24 ~~member, (b) in dentistry the board shall consist of ten members,~~
25 ~~including at least two public members, (c) in medicine and surgery~~

1 the board shall consist of eight members, including at least two
2 public members, (d) in pharmacy the board shall consist of five
3 members, including at least one public member, (e) in psychology
4 the board shall consist of seven members, including at least two
5 public members, (f) in medical nutrition therapy the board shall
6 consist of five members, including at least one public member,
7 (g) in mental health practice the board shall consist of not
8 more than ten members, including at least two public members, (h)
9 in alcohol and drug counseling the board shall consist of nine
10 members, including two public members, (i) in veterinary medicine
11 and surgery the board shall consist of five members, including at
12 least one public member, and (j) boards with eleven or more members
13 shall have at least three public members.

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

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

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

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

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

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

9 ~~(9) Membership on the Board of Mental Health Practice~~
10 ~~shall consist of not more than two certified master social workers,~~
11 ~~not more than two certified professional counselors, not more than~~
12 ~~two certified marriage and family therapists, and at least two~~
13 ~~public members. At least one professional member of the board~~
14 ~~shall be a member of a racial or ethnic minority. When ten or~~
15 ~~more persons hold licenses as mental health practitioners without~~
16 ~~holding an associated certificate, not more than two such licensed~~
17 ~~mental health practitioners shall be added to the board.~~

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

25 ~~(11) Membership on the Board of Veterinary Medicine~~

1 and Surgery shall consist of three veterinarians, one veterinary
2 technician, and one public member.

3 Sec. 63. Section 71-116, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-116~~ (1) The members of each professional board shall
6 be residents of the State of Nebraska and shall be appointed for
7 terms of five years except as otherwise provided in the Uniform
8 Credentialing Act. No member shall be appointed for or serve for
9 more than two consecutive full five-year terms except as otherwise
10 specifically provided in the act.

11 ~~(2)~~ The members of the Board of Dentistry shall be
12 appointed as follows: As of December 1, 1971, one member shall
13 be appointed for a term of five years and one member shall be
14 appointed for a term of three years; as of December 1, 1972,
15 one member shall be appointed for a term of three years; as of
16 December 1, 1973, one member shall be appointed for a term of
17 three years; as of December 1 of each year thereafter, two members
18 shall be appointed for terms of five years; as of December 1,
19 1979, one member who is a dental hygienist licensed under the
20 Uniform Licensing Law and who complies with section 71-114 shall
21 be appointed for a term of five years; as of December 1, 1984,
22 one public member shall be appointed for a term of five years; and
23 as of December 1, 1994, a second member who is a dental hygienist
24 licensed under the Uniform Licensing Law and who complies with
25 section 71-114 and a second public member shall be appointed for

1 terms of five years. Thereafter successors with like qualifications
2 shall be appointed for five-year terms.

3 (3) The members of the Board of Medicine and Surgery
4 shall be appointed as follows: Within thirty days after May 25,
5 1943, five members shall be appointed, one of whom shall hold
6 office until December 1, 1944, one until December 1, 1945, one
7 until December 1, 1946, one until December 1, 1947, and one until
8 December 1, 1948; upon the expiration of such terms, successors
9 shall be appointed for terms of five years each. Within thirty
10 days after October 19, 1963, a sixth member, who shall be a person
11 eligible for appointment to the Board of Examiners in Osteopathy
12 who also has a license to practice medicine and surgery in the
13 State of Nebraska, shall be appointed for a term expiring on
14 December 1, 1968. As of December 1, 1984, one public member shall
15 be appointed for a term of five years, and as of December 1, 1994,
16 a second public member shall be appointed for a term of five years.
17 Thereafter successors with like qualifications shall be appointed
18 for five-year terms. Upon the expiration of the five-year term of
19 such sixth member of the board after April 19, 1986, his or her
20 eligible successor shall be a person who has a license to practice
21 osteopathic medicine or osteopathic medicine and surgery in the
22 State of Nebraska.

23 (4) The members of the Board of Audiology and
24 Speech-Language Pathology shall be appointed as follows: Within
25 sixty days after July 22, 1978, four members shall be appointed,

1 two of whom shall hold office until December 1, 1979, and two until
2 December 1, 1980. As of December 1, 1984, one public member shall
3 be appointed for a term of five years. Upon the expiration of such
4 terms, the successors shall be appointed for terms of five years
5 each.

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

16 (6) The members of the Board of Psychologists appointed
17 as successors to the members serving on February 25, 1984, shall be
18 appointed for terms of five years. The terms of members serving on
19 February 25, 1984, are hereby extended to December 1 of the year in
20 which they would otherwise expire.

21 (7) The three members serving on the Board of Examiners
22 in Massage on August 1, 1988, shall be appointed as members of the
23 Board of Massage Therapy. Successors shall be massage therapists
24 and shall be appointed for terms of five years each. One public
25 member shall be appointed on December 1, 1988, for a term of

1 five years. Upon the expiration of the public member's term, each
2 subsequent public member shall be appointed for a five-year term.

3 ~~(8) The initial members of the Board of Mental Health
4 Practice appointed from the Board of Examiners in Social Work
5 and the Board of Examiners in Professional Counseling, as such
6 boards existed immediately prior to September 1, 1994, shall serve
7 until the expiration of the terms they would have served on
8 their respective boards. One initial public member and one initial
9 marriage and family therapist shall hold office until December 1
10 of the fourth year following September 1, 1994, and one initial
11 public member and one initial marriage and family therapist shall
12 hold office until December 1 of the fifth year following September
13 1, 1994.~~

14 ~~(9) The initial members of the Board of Alcohol and
15 Drug Counseling shall be appointed within ninety days after July
16 1, 2004, to hold office as follows: Of the six alcohol and drug
17 counselors, one shall hold office until April 1, 2006, two until
18 April 1, 2007, one until April 1, 2008, one until April 1,
19 2009, and one until April 1, 2010, as designated at the time of
20 appointment; the person who is a psychiatrist, psychologist, or
21 mental health practitioner shall hold office until April 1, 2008,
22 and of the two public members, one shall hold office until April
23 1, 2009, and one until April 1, 2010, as designated at the time of
24 appointment.~~

25 ~~(10) Except as otherwise specifically provided, the (2)~~

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

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

19 Sec. 64. Section 71-114, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 ~~71-114~~ (1) A professional member of a board appointed
22 under the Uniform Licensing Law prior to the operative date of this
23 section shall remain subject to the requirements of the original
24 appointment until reappointed under the Uniform Credentialing Act.
25 Except as otherwise provided in subsections ~~(3)~~ and ~~(5)~~ of this

1 ~~section, the Uniform Credentialing Act,~~ every professional member
2 of a ~~professional~~ board appointed on or after the operative date
3 of this section shall have held and maintained an active credential
4 and be and have been actively engaged in the practice of his
5 or her profession in the State of Nebraska, under a credential
6 ~~issued in this state,~~ for a period of five years just preceding
7 his or her appointment and shall maintain such credential and
8 practice while serving as a board member. For purposes of this
9 section, active practice means devoting a substantial portion of
10 time to rendering professional services. ~~except for the members~~
11 ~~of professional boards for professions coming within the scope of~~
12 ~~the Uniform Licensing Law for the first time and for a period of~~
13 ~~five years thereafter. Members appointed during such period shall~~
14 ~~be required to meet the minimum qualifications for credentialing in~~
15 ~~the profession in this state and shall, insofar as possible, meet~~
16 ~~the requirements as to years of practice in this state otherwise~~
17 ~~provided by this section.~~

18 (2) Each professional member of a board shall have been
19 a resident of Nebraska for one year and shall remain a resident of
20 Nebraska while serving as a board member. ~~the Board of Audiology~~
21 ~~and Speech-Language Pathology shall have been a resident of the~~
22 ~~State of Nebraska for at least one year immediately prior to~~
23 ~~appointment and shall also have been engaged in rendering services~~
24 ~~to the public in audiology or speech-language pathology for at~~
25 ~~least three years immediately prior to appointment.~~

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

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

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

18 Sec. 65. A public member of a board appointed under
19 the Uniform Licensing Law prior to the operative date of this
20 section shall remain subject to the requirements of the original
21 appointment until reappointed under the Uniform Credentialing Act.
22 At the time of appointment and while serving as a board member, a
23 public member appointed to a board on or after the operative date
24 of this section shall:

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

- 1 (2) Remain a resident of Nebraska while serving as a
2 board member;
- 3 (3) Have attained the age of nineteen years;
- 4 (4) Represent the interests and viewpoints of the public;
- 5 (5) Not hold an active credential in any profession or
6 business which is subject to the Uniform Credentialing Act, issued
7 in Nebraska or in any other jurisdiction, at any time during the
8 five years prior to appointment;
- 9 (6) Not be eligible for appointment to a board which
10 regulates a profession or business in which that person has ever
11 held a credential;
- 12 (7) Not be or not have been, at any time during the
13 year prior to appointment, an employee of a member of a profession
14 credentialed by the department, of a facility credentialed pursuant
15 to the Health Care Facility Licensure Act, or of a business
16 credentialed pursuant to the Uniform Credentialing Act;
- 17 (8) Not be the parent, child, spouse, or household member
18 of any person presently regulated by the board to which the
19 appointment is being made;
- 20 (9) Have no material financial interest in the profession
21 or business regulated by such board; and
- 22 (10) Not be a member or employee of the legislative or
23 judicial branch of state government.
- 24 Sec. 66. For professions coming within the scope of the
25 Uniform Credentialing Act for the first time:

1 (1) A professional member of a board shall not be
2 required to have held and maintained an active credential for a
3 period of five years just preceding his or her appointment. Members
4 appointed during the first five years after a profession comes
5 within the scope of the act shall be required to meet the minimum
6 qualifications for credentialing and shall, insofar as possible,
7 meet the requirements as to years of practice in this state
8 otherwise provided by section 64 of this act;

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

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

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

1 Sec. 67. Section 71-112, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-112~~ (1) ~~Professional boards under the Uniform~~
4 ~~Licensing Law Boards~~ shall be designated as follows:

5 (a) Board of Advanced Practice Registered Nurses;

6 (b) Board of Alcohol and Drug Counseling;

7 (c) Board of Athletic Training;

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

9 (e) Board of Chiropractic;

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

12 (g) Board of Dentistry;

13 (h) Board of Emergency Medical Services;

14 (i) Board of Registered Environmental Health Specialists;

15 (j) Board of Funeral Directing and Embalming;

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

18 (l) Board of Massage Therapy;

19 (m) Board of Medical Nutrition Therapy;

20 (n) Board of Medical Radiography;

21 (o) Board of Medicine and Surgery;

22 (p) Board of Mental Health Practice;

23 (q) Board of Nursing;

24 (r) Board of Nursing Home Administration;

25 (s) Board of Occupational Therapy Practice;

- 1 (t) Board of Optometry;
- 2 (u) Board of Pharmacy;
- 3 (v) Board of Physical Therapy;
- 4 (w) Board of Podiatry;
- 5 (x) Board of Psychology;
- 6 (y) Board of Respiratory Care Practice;
- 7 (z) Board of Veterinary Medicine and Surgery; and
- 8 (aa) Water Well Standards and Contractors' Licensing
- 9 Board.
- 10 ~~(a) For medicine and surgery, acupuncture, and~~
- 11 ~~osteopathic medicine and surgery, Board of Medicine and Surgery;~~
- 12 ~~(b) For athletic training, Board of Athletic Training;~~
- 13 ~~(c) For respiratory care, Board of Respiratory Care~~
- 14 ~~Practice;~~
- 15 ~~(d) For chiropractic, Board of Chiropractic;~~
- 16 ~~(e) For dentistry and dental hygiene, Board of Dentistry;~~
- 17 ~~(f) For optometry, Board of Optometry;~~
- 18 ~~(g) For massage therapy, Board of Massage Therapy;~~
- 19 ~~(h) For physical therapy, Board of Physical Therapy;~~
- 20 ~~(i) For pharmacy, Board of Pharmacy;~~
- 21 ~~(j) For audiology and speech-language pathology, Board of~~
- 22 ~~Audiology and Speech-Language Pathology;~~
- 23 ~~(k) For medical nutrition therapy, Board of Medical~~
- 24 ~~Nutrition Therapy;~~
- 25 ~~(l) For funeral directing and embalming, Board of Funeral~~

1 ~~Directing and Embalming,~~

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

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

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

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

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

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

16 Sec. 68. Section 71-115.01, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 ~~71-115.01~~ The department shall adopt and promulgate rules
 19 and regulations which may establish definitions of conflicts of
 20 interest for members of the professional boards specified in
 21 ~~section 71-112~~ and which may establish procedures in the case
 22 such a conflict arises. For purposes of this section, conflict of
 23 interest includes financial, professional, or personal obligations
 24 that may compromise or present the appearance of compromising the
 25 judgment of a member in the performance of his or her duties.

1 Sec. 69. Section 71-120, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-120~~ Each ~~professional~~ board shall organize annually
4 at its first meeting subsequent to December 1 and shall select
5 a chairperson, a vice-chairperson, and a secretary from its own
6 membership.

7 Sec. 70. Section 71-121, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 ~~71-121~~ The department shall, as far as practicable,
10 provide for the conducting of the business of the ~~professional~~
11 boards by mail and may hold meetings by teleconference or
12 videoconference subject to the Open Meetings Act. Any official
13 action or vote of the members of a ~~professional~~ board taken by mail
14 shall be preserved in the records of the department and shall be
15 ~~embodied in the proper minute book~~ recorded in the board's minutes
16 by the department.

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

19 ~~71-122~~ Each member of a ~~professional~~ board shall, in
20 addition to necessary traveling and lodging expenses, receive
21 a per diem for each day actually engaged in the discharge of
22 his or her duties, including compensation for the time spent in
23 traveling to and from the place of conducting ~~the examination,~~
24 ~~and, with the exception of board members who are public members,~~
25 ~~for a reasonable number of days for the preparation of examination~~

1 ~~questions and the reading of the answer papers,~~ in addition to
2 ~~the time actually spent in conducting the examination.~~ business.
3 Traveling and lodging expenses shall be on the same basis as
4 provided in sections 81-1174 to 81-1177. The compensation per day
5 shall not exceed ~~thirty~~ fifty dollars and shall be determined by
6 each board with the approval of the department. Persons serving on
7 an advisory committee or body under section 61 of this act shall
8 receive remuneration of expenses as provided in sections 81-1174
9 to 81-1177, including compensation for time spent in traveling to
10 and from the place of conducting business, and a per diem of
11 fifty dollars. ~~except that there shall not be paid for members'~~
12 ~~compensation and expenses a greater sum than is received in fees~~
13 ~~from the applicants for credentials in any particular profession.~~

14 Sec. 72. Section 71-124, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-124~~ Each professional board may select one or more
17 of its members to attend the annual meeting of the national
18 organization of state ~~examining~~ boards of such profession or other
19 related meetings. Any member so selected shall receive his or her
20 necessary traveling and lodging expenses in attending such ~~meeting~~
21 meetings on the same basis as provided in sections 81-1174 to
22 81-1177. ~~if there are funds available belonging to that board.~~

23 Sec. 73. Section 71-161.19, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-161.19~~ No member of a professional board, ~~for any~~

1 ~~profession or occupation credentialed by the department pursuant~~
2 ~~to Chapter 71,~~ no expert retained by ~~such board,~~ the department,
3 and no member of ~~such a~~ profession or occupation who provides
4 consultation to or testimony for the department shall be liable in
5 damages to any person for slander, libel, defamation of character,
6 breach of any privileged communication, or otherwise for any action
7 taken or recommendation made within the scope of the functions of
8 such board or expert or the consultation or testimony given by such
9 person, if such board member, expert, or person acts without malice
10 and in the reasonable belief that such action, recommendation,
11 consultation, or testimony is warranted by the facts known to him
12 or her after a reasonable effort is made to obtain the facts on
13 which such action is taken, recommendation is made, or consultation
14 or testimony is provided.

15 Sec. 74. Section 71-121.01, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 ~~71-121.01~~ The department shall be responsible for the
18 general administration of the activities of each of the boards, as
19 defined in the Advanced Practice Registered Nurse Licensure Act,
20 the Certified Registered Nurse Anesthetist Act, the Clinical Nurse
21 Specialist Practice Act, the Nebraska Certified Nurse Midwifery
22 Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act,
23 the Nurse Practitioner Act, the Occupational Therapy Practice Act,
24 and sections 71-4701 to 71-4719 and 71-6053 to 71-6068 and the
25 boards covered by the scope of the Uniform Licensing Law and named

1 ~~in section 71-102.~~ The cost of operation and administration of the
2 boards shall be paid from ~~fees, gifts, grants, and other money~~
3 ~~credited to~~ the General Fund and the Professional and Occupational
4 Credentialing Cash Fund. ~~The Director of Regulation and Licensure~~
5 ~~shall determine the proportionate share of this cost to be paid~~
6 ~~from the fees of the respective boards, except that no fees shall~~
7 ~~be paid for such purpose from the fund without the prior approval~~
8 ~~of the boards concerned. The director's determinations shall become~~
9 ~~final when approved by the respective boards and the department and~~
10 ~~shall be valid for one fiscal year only.~~

11 Sec. 75. Section 71-172.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-172.01~~ (1) The Department of Health and Human
14 ~~Services Regulation and Licensure~~ department may contract with
15 the Department of Health and Human Services to provide a
16 Licensee Assistance Program to credential holders regulated by the
17 ~~Department of Health and Human Services Regulation and Licensure.~~
18 department. The program shall be limited to providing education,
19 referral assistance, and monitoring of compliance with treatment
20 ~~of habitual intoxication or dependence~~ for abuse of, dependence
21 on, or active addiction to alcohol, any controlled substance, or
22 any mind-altering substance and shall be limited to voluntary
23 participation by credential holders.

24 (2)(a) Participation in the program shall be
25 confidential, except that if any evaluation by the program

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

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

11 (3) Any report from any person or from the program to the
12 Department of Health and Human Services Regulation and Licensure
13 department indicating that a credential holder is suffering from
14 habitual intoxication or dependence abuse of, dependence on, or
15 active addiction to alcohol, any controlled substance, or any
16 mind-altering substance that impairs the ability to practice the
17 profession shall be treated as a complaint against such credential
18 and shall subject such credential holder to discipline under
19 sections ~~71-150 to 71-155~~ 86 to 100 of this act.

20 ~~(3)~~ (4) No person who makes such a report of intoxication
21 ~~or dependence~~ to the program or from the program to the department
22 shall be liable in damages to any person for slander, libel,
23 defamation of character, breach of any privileged communication, or
24 other criminal or civil action of any nature, whether direct or
25 derivative, for making such report or providing information to the

1 program or department in accordance with this section.

2 ~~(4)~~ (5) Any person who contacts the department for
3 information on or assistance in obtaining referral or treatment
4 of himself or herself or any other person credentialed by the
5 department for ~~habitual intoxication or dependence~~ abuse of,
6 dependence on, or active addiction to alcohol, any controlled
7 substance, or any mind-altering substance that impairs the ability
8 to practice the profession shall be referred to the program. Such
9 inquiries shall not be used by the department as the basis for
10 investigation for disciplinary action, except that such limitation
11 shall not apply to complaints or any other reports or inquiries
12 made to the department concerning persons who may be suffering
13 from ~~habitual intoxication or dependence~~ abuse of, dependence on,
14 or active addiction to alcohol, any controlled substance, or any
15 mind-altering substance that impairs the ability to practice the
16 profession or when a complaint has been filed or an investigation
17 or disciplinary or other administrative proceeding is in process.

18 Sec. 76. (1) The director shall have jurisdiction of
19 proceedings (a) to deny the issuance of a credential, (b) to refuse
20 renewal of a credential, and (c) to discipline a credential holder.

21 (2) Except as otherwise provided in section 119 of this
22 act, if an applicant for an initial credential or for renewal of
23 a credential to practice a profession does not meet all of the
24 requirements for the credential, the department shall deny issuance
25 or renewal of the credential.

1 Sec. 77. Section 71-161.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-161.01~~ For purposes of sections 78, 79, and 84 of this
4 act:

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

7 (2) Conviction means a A plea or verdict of guilty or
8 a conviction following a plea of nolo contendere or non vult
9 contendere made to a formal criminal charge shall be deemed to
10 be a conviction within the meaning of sections ~~28-409, 71-147,~~
11 ~~71-3,174, 71-3,175,~~ and ~~71-6054.~~ The term conviction within the
12 meaning of such sections shall mean or a judicial finding
13 of guilt irrespective of the pronouncement of judgment or the
14 suspension thereof and shall ~~include~~ includes instances in which
15 the imposition or the execution of sentence is suspended following
16 a judicial finding of guilt and the defendant is placed on
17 probation; and

18 (3) Pattern of incompetent or negligent conduct means a
19 continued course of incompetent or negligent conduct in performing
20 the duties of the profession. Pursuant to such sections, a license,
21 permit, certificate, or registration, including one of a temporary
22 nature, may be denied, refused renewal, limited, suspended, or
23 revoked or have other disciplinary measures taken against it in
24 accordance with section 71-155 when the time for appeal of the
25 conviction has elapsed or the conviction has been affirmed on

1 appeal or an order granting probation is made suspending the
 2 imposition or the execution of sentence, irrespective of any
 3 subsequent order under any statute allowing such person to withdraw
 4 his or her plea of guilty, nolo contendere, or non vult contendere
 5 and to enter a plea of not guilty, or setting aside the verdict of
 6 guilty or the conviction, or releasing the person from probation,
 7 or dismissing the accusation, information, or indictment.

8 Sec. 78. Section 71-147, Revised Statutes Cumulative
 9 Supplement, 2006, is amended to read:

10 71-147 A license, certificate, or registration Except as
 11 otherwise provided in sections 119 to 123 of this act, a credential
 12 to practice a profession may be denied, refused renewal, limited,
 13 revoked, or suspended or have other disciplinary measures taken
 14 against it in accordance with section 71-155 when the applicant,
 15 licensee, certificate holder, or registrant is guilty of any of the
 16 following acts or offenses: 85 or 86 of this act on any of the
 17 following grounds:

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

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

25 (3) Habitual intoxication or dependence or failure Abuse

1 of, dependence on, or active addiction to alcohol, any controlled
2 substance, or any mind-altering substance;

3 (4) Failure to comply with a treatment program or an
4 aftercare program, including, but not limited to, a program entered
5 into under the Licensee Assistance Program established pursuant to
6 section ~~71-172.01~~, 75 of this act;

7 ~~(4)~~ (5) Conviction of (a) a misdemeanor or felony under
8 state law, Nebraska law or federal law, or the law of another or
9 (b) a crime in any jurisdiction and which, if committed within
10 this state, would have constituted a misdemeanor or felony under
11 state Nebraska law and which has a rational connection with
12 the applicant's, licensee's, certificate holder's, or registrant's
13 fitness or capacity of the applicant or credential holder to
14 practice the profession;

15 ~~(5)~~ (6) Practice of the profession (a) fraudulently, (b)
16 beyond its authorized scope, (c) with manifest incapacity, ~~(d)~~ with
17 gross incompetence or gross negligence, or ~~(e)~~ (d) in a pattern of
18 incompetent or negligent conduct; ~~Pattern of negligent conduct~~
19 shall mean a continued course of negligent conduct in performing
20 the duties of the profession;

21 ~~(6)~~ (7) Practice of the profession while the ability to
22 practice is impaired by alcohol, controlled substances, narcotic
23 drugs, mind-altering substances, physical disability, mental
24 disability, or emotional disability;

25 ~~(7)~~ (8) Physical or mental incapacity to practice the

1 profession as evidenced by a legal ~~adjudication~~ judgment or a
 2 determination thereof by other lawful means;

3 ~~(8)~~ (9) Illness, deterioration, or disability that
 4 impairs the ability to practice the profession;

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

9 ~~(9)~~ (11) Having had his or her license, ~~certificate,~~
 10 ~~or registration~~ credential denied, refused renewal, limited,
 11 suspended, ~~or revoked,~~ or having had such ~~license,~~ ~~certificate,~~ ~~or~~
 12 ~~registration~~ disciplined in any other manner in accordance with
 13 ~~section 71-155~~ similar to section 96 of this act by another state
 14 or jurisdiction to practice the particular profession involved,
 15 based upon acts by the applicant, licensee, certificate holder,
 16 ~~or registrant~~ or credential holder similar to acts described in
 17 this section; . A certified copy of the record of denial, refusal
 18 of renewal, limitation, suspension, or revocation of a license,
 19 certificate, or registration or the taking of other disciplinary
 20 measures against it by another state or jurisdiction shall be
 21 conclusive evidence;

22 ~~(10)~~ Unprofessional conduct;

23 ~~(11)~~ (12) Use of untruthful, deceptive, or misleading
 24 statements ~~or improbable statements~~ ~~or flamboyant,~~ ~~exaggerated,~~
 25 ~~or extravagant~~ claims, concerning such licensee's, certificate

1 holder's, or registrant's professional excellence or abilities, in
2 advertisements;

3 ~~(12)~~ (13) Conviction of fraudulent or misleading
4 advertising or conviction of a violation of the Uniform Deceptive
5 Trade Practices Act;

6 ~~(13)~~ (14) Distribution of intoxicating liquors,
7 controlled substances, or drugs for any other than lawful purposes;

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

14 ~~(15)~~ (16) Unlawful invasion of the field of practice
15 of any profession mentioned in the Uniform Licensing Law which
16 the licensee, certificate holder, or registrant is not licensed,
17 certified, or registered regulated by the Uniform Credentialing Act
18 which the credential holder is not credentialed to practice;

19 ~~(16)~~ Failure to comply with sections 71-603.01, 71-604,
20 71-605, and 71-606 relating to the signing of birth and death
21 certificates;

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

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

1 Act;

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

3 ~~(20) (18) Failure to file a report required by section~~
 4 ~~124 or 125 of this act; 71-168;~~

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

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

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

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

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

21 (19) Failure to maintain the requirements necessary to
 22 obtain a credential;

23 (20) Violation of an order issued by the department;

24 (21) Violation of an assurance of compliance entered into
 25 under section 108 of this act;

1 ~~(22) Failure to pay an administrative penalty; or~~
 2 ~~(23) Unprofessional conduct as defined in section 79 of~~
 3 ~~this act.~~

4 Sec. 79. Section 71-148, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 ~~71-148~~ For purposes of section ~~71-147~~, 78 of this act,
 7 unprofessional conduct means any departure from or failure to
 8 conform to the standards of acceptable and prevailing practice of
 9 a profession ~~or occupation~~ or the ethics of the profession, ~~or~~
 10 ~~occupation~~, regardless of whether a person, ~~patient~~, consumer, or
 11 entity is injured, or conduct that is likely to deceive or defraud
 12 the public or is detrimental to the public interest, including, but
 13 not limited to:

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

18 ~~(2)~~ (1) Receipt of fees on the assurance that a
 19 manifestly an incurable disease can be permanently cured;

20 ~~(3)~~ (2) Division of fees, or agreeing to split or divide
 21 the fees, received for professional services with any person for
 22 bringing or referring a ~~patient~~, consumer other than (a) with a
 23 partner or employee of the applicant or credential holder or his
 24 or her office or clinic, (b) with a landlord of the applicant or
 25 credential holder pursuant to a written agreement that provides

1 for payment of rent based on gross receipts, (c) with a former
 2 partner or employee of the applicant or credential holder based
 3 on a retirement plan or separation agreement, or (d) by a person
 4 credentialed pursuant to the Water Well Standards and Contractors'
 5 Practice Act;

6 ~~(4)~~ (3) Obtaining any fee for professional services by
 7 fraud, deceit, or misrepresentation, including, but not limited to,
 8 falsification of third-party claim documents;

9 ~~(5)~~ (4) Cheating on or attempting to subvert the
 10 ~~licensing or certification~~ credentialing examination;

11 ~~(6)~~ (5) Assisting in the care or treatment of a ~~patient~~
 12 consumer without the consent of such ~~patient~~ consumer or his or her
 13 legal representative;

14 ~~(7)~~ (6) Use of any letters, words, or terms, either as
 15 a prefix, affix, or suffix, on stationery, in advertisements, or
 16 otherwise, indicating that such person is entitled to practice a
 17 ~~system or mode of healing~~ profession for which he or she is not
 18 ~~licensed, certified, or registered;~~ credentialed;

19 ~~(8)~~ (7) Performing, procuring, or aiding and abetting in
 20 the performance or procurement of a criminal abortion;

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

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

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

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

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

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

12 ~~(15) The intentional and knowing performance of a~~
13 ~~partial-birth abortion as defined in subdivision (9) of section~~
14 ~~28-326, unless such procedure is necessary to save the life of the~~
15 ~~mother whose life is endangered by a physical disorder, physical~~
16 ~~illness, or physical injury, including a life-endangering physical~~
17 ~~condition caused by or arising from the pregnancy itself;~~

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

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

22 ~~(18) (9) Commission of any act of sexual abuse,~~
23 ~~misconduct, or exploitation related to the practice of the~~
24 ~~profession or occupation of the applicant, licensee, certificate~~
25 ~~holder, or registrant or credential holder;~~

1 ~~(19)~~ (10) Failure to keep and maintain adequate records
2 of treatment or service;

3 ~~(20)~~ (11) Prescribing, administering, distributing,
4 dispensing, giving, or selling any controlled substance or other
5 drug recognized as addictive or dangerous for other than a
6 medically accepted therapeutic purpose;

7 ~~(21)~~ (12) Prescribing any controlled substance to oneself
8 ~~or, except in the case of a medical emergency, to one's spouse or~~
9 ~~child~~ (a) oneself or (b) except in the case of a medical emergency
10 (i) one's spouse, (ii) one's child, (iii) one's parent, (iv) one's
11 sibling, or (v) any other person living in the same household as
12 the prescriber;

13 (13) Failure to comply with any federal, state, or
14 municipal law, ordinance, rule, or regulation that pertains to the
15 applicable profession;

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

19 ~~(22)~~ (15) Such other acts as may be defined in rules and
20 regulations_ adopted and promulgated by the board of examiners in
21 the profession of the applicant, licensee, certificate holder, or
22 registrant with the approval of the department.

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

1 Sec. 80. For purposes of subdivision (11) of section 78
2 of this act, a certified copy of the record of denial, refusal
3 of renewal, limitation, suspension, or revocation of a license,
4 certificate, registration, or other similar credential or the
5 taking of other disciplinary measures against it by another state
6 or jurisdiction shall be conclusive evidence of a violation.

7 Sec. 81. If an applicant for an initial credential to
8 operate a business does not meet all of the requirements for the
9 credential, the department shall deny issuance of the credential.
10 If an applicant for an initial credential to operate a business
11 or a credential holder applying for renewal of the credential to
12 operate a business has committed any of the acts set out in section
13 82 of this act, the department may deny issuance or refuse renewal
14 of the credential or may issue or renew the credential subject to
15 any of the terms imposed under section 96 of this act in order to
16 protect the public.

17 Sec. 82. A credential to operate a business may be
18 denied, refused renewal, or have disciplinary measures taken
19 against it in accordance with section 96 of this act on any
20 of the following grounds:

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

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

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

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

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

11 Sec. 83. Section 71-147.02, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-147.02 (1) The department may temporarily suspend or
14 temporarily limit the license of any licensee, the certificate
15 of any certificate holder, or the registration of any registrant
16 any credential issued by the department without notice or a
17 hearing if the director determines that there is reasonable cause
18 to believe that grounds exist under section 71-147 78 or 82
19 of this act for the revocation, suspension, or limitation of
20 the license, certificate, or registration credential and that
21 the licensee's, certificate holder's, or registrant's credential
22 holder's continuation in practice or operation would constitute an
23 imminent danger to the public health and safety. Simultaneously
24 with any such action, the department shall institute proceedings
25 for a hearing on the grounds for revocation, suspension,

1 or limitation of the ~~license, certificate, or registration,~~
2 credential. Such hearing shall be held no later than fifteen days
3 from the date of such temporary suspension or temporary limitation
4 of the ~~license, certificate, or registration,~~ credential.

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

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

23 Sec. 84. If an applicant for a credential or a credential
24 holder is convicted of an offense for which the credential may
25 be denied or refused renewal or have other disciplinary measures

1 taken against it in accordance with section 96 of this act,
 2 such denial, refusal of renewal, or disciplinary measures may be
 3 taken when the time for appeal of the conviction has elapsed or
 4 the conviction has been affirmed on appeal or an order granting
 5 probation is made suspending the imposition or the execution of
 6 sentence, irrespective of any subsequent order under any statute
 7 allowing such person to withdraw his or her plea of guilty,
 8 nolo contendere, or non vult contendere and to enter a plea
 9 of not guilty, or setting aside the verdict of guilty or the
 10 conviction, or releasing the person from probation, or dismissing
 11 the accusation, information, or indictment.

12 Sec. 85. Section 71-150, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 71-150 ~~(1)~~ The Director of Regulation and Licensure shall
 15 have jurisdiction of proceedings ~~(a) to deny the issuance of a~~
 16 ~~license, certificate, or registration, (b) to refuse renewal of~~
 17 ~~a license, certificate, or registration, and (c) to discipline a~~
 18 ~~licensee, certificate holder, or registrant.~~

19 ~~(2)~~ To deny or refuse renewal of a license, certificate,
 20 ~~or registration, credential, the department shall send notify~~
 21 ~~the applicant, licensee, certificate holder, or registrant, by~~
 22 ~~registered or certified mail, notice setting forth or credential~~
 23 ~~holder in writing of the action taken and the reasons for~~
 24 the determination. The denial or refusal to renew shall become
 25 final thirty days after mailing the notice unless the applicant,

1 licensee, certificate holder, or registrant or credential holder,
2 within such thirty-day period, gives written notice of his or her
3 desire for requests a hearing in writing. The hearing shall be
4 conducted in accordance with the Administrative Procedure Act.

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

13 Sec. 86. (1) A petition shall be filed by the Attorney
14 General in order for the director to discipline a credential
15 obtained under the Uniform Credentialing Act to:

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

19 (b) Operate as a business for the provision of services
20 in body art; cosmetology; emergency medical services; esthetics;
21 funeral directing and embalming; massage therapy; and nail
22 technology in accordance with subsection (3) of section 21 of this
23 act.

24 (2) The petition shall be filed in the office of the
25 director. The department may withhold a petition for discipline or

1 a final decision from public access for a period of five days from
2 the date of filing the petition or the date the decision is entered
3 or until service is made, whichever is earliest.

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

14 Sec. 87. Section 71-152, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-152~~ The following rules shall govern the form of the
17 petition in cases brought pursuant to section ~~71-150+~~ 86 of this
18 act:

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

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

25 (3) Amendments may be made as in ordinary actions in the

1 district court; and

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

5 Sec. 88. Section 71-153, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-153~~ Upon the presentation of the petition to the
8 ~~Director of Regulation and Licensure,~~ director, he or she shall
9 make an order fixing the time and place for the hearing, which
10 shall not be less than thirty nor more than sixty days thereafter.

11 Sec. 89. Section 71-154, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-154~~ Notice of the filing of a petition pursuant to
14 section ~~71-150~~ 86 of this act and of the time and place of
15 hearing shall be served upon the ~~licensee, certificate holder, or~~
16 ~~registrant~~ credential holder at least ten days before the hearing.
17 The notice may be served by any method specified in section
18 25-505.01, or the director may permit substitute or constructive
19 service as provided in section 25-517.02 when service cannot be
20 made with reasonable diligence by any of the methods specified in
21 section 25-505.01.

22 Sec. 90. Section 71-161.03, Reissue Revised Statutes of
23 Nebraska, as amended by section 311, Legislative Bill 296, One
24 Hundredth Legislature, First Session, 2007, is amended to read:

25 ~~71-161.03~~ (1) Any petition filed with the ~~director~~

1 pursuant to section ~~71-150~~ 86 of this act may, at any time
2 prior to the entry of any order by the director, be disposed of
3 by stipulation, agreed settlement, consent order, or similar method
4 as agreed to between the parties. A proposed settlement shall
5 be submitted and considered in camera and shall not be a public
6 record unless accepted by the director. The director may review the
7 input provided to the Attorney General by the board pursuant to
8 subsection (2) of this section. If the settlement is acceptable to
9 the director, he or she shall make it the sole basis of any order
10 he or she enters in the matter, and it may be modified or added to
11 by the director only upon the mutual consent of both of the parties
12 thereto. If the settlement is not acceptable to the director, it
13 shall not be admissible in any subsequent hearing and it shall not
14 be considered in any manner as an admission.

15 (2) The Attorney General shall not enter into any
16 agreed settlement or dismiss any petition without first having
17 given notice of the proposed action and an opportunity to the
18 appropriate ~~professional~~ board to provide input into the terms of
19 the settlement or on dismissal. The board shall have fifteen days
20 from the date of the Attorney General's request to respond, but
21 the recommendation of the board, if any, shall not be binding
22 on the Attorney General. Meetings of the board for such purpose
23 shall be in closed session, and any recommendation by the board
24 to the Attorney General shall not be a public record until the
25 pending action is complete, except that if the director reviews the

1 input provided to the Attorney General by the board as provided
2 in subsection (1) of this section, the ~~licensee, certificate~~
3 credential holder, or registrant shall also be provided a copy of
4 the input and opportunity to respond in such manner as the director
5 determines.

6 Sec. 91. Section 71-156, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-156 In case the licensee, certificate holder, or~~
9 ~~registrant~~ If a credential holder fails to appear, either in
10 person or by counsel, at the time and place designated in the
11 notice required by section ~~71-154, 89 of this act,~~ the ~~Director~~
12 ~~of Regulation and Licensure~~ director, after receiving satisfactory
13 evidence of the truth of the charges, shall order the ~~license,~~
14 ~~certificate, or registration~~ credential revoked or suspended or
15 shall order any or all of the other appropriate disciplinary
16 measures authorized by section ~~71-155 96 of this act~~ to be
17 taken against the licensee, certificate holder, or registrant.
18 credential.

19 Sec. 92. If the director determines upon completion of
20 a hearing under section 86 of this act that a violation has
21 occurred, the director may, at his or her discretion, consult with
22 the appropriate board concerning sanctions to be imposed or terms
23 and conditions of the sanctions. When the director consults with
24 a board, the credential holder and the Attorney General shall be
25 provided with a copy of the director's request, the recommendation

1 of the board, and an opportunity to respond in such manner as the
2 director determines. The director shall have the authority through
3 entry of an order to exercise in his or her discretion any or all
4 of the sanctions authorized under section 96 of this act.

5 Sec. 93. If the petition is brought with respect to
6 subdivision (3) of section 679 of this act, the director shall
7 make findings as to whether the licensee's conduct was necessary
8 to save the life of a mother whose life was endangered by a
9 physical disorder, physical illness, or physical injury, including
10 a life-endangering physical condition caused by or arising from
11 the pregnancy itself. The director shall have the authority through
12 entry of an order to exercise in his or her discretion any or
13 all of the sanctions authorized under section 96 of this act,
14 irrespective of the petition.

15 Sec. 94. Section 71-157, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-157~~ If the order issued pursuant to section ~~71-156~~
18 regarding discipline of a credential is adverse to the credential
19 holder, the costs shall be charged to him or her as in ordinary
20 civil actions in the district court, but if the state is the
21 unsuccessful party, the costs shall be paid out of any money in the
22 Professional and Occupational Credentialing Cash Fund available for
23 that purpose. Witness fees and costs may be taxed according to the
24 rules prevailing in the district court.

25 Sec. 95. Section 71-158, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-158~~ All costs accrued at the instance of the state
3 when it is the successful party in a proceeding to discipline
4 a credential, which the Attorney General certifies cannot be
5 collected from the defendant, shall be paid out of any available
6 funds in the Professional and Occupational Credentialing Cash Fund.

7 Sec. 96. Section 71-155, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-155 (1)~~ The proceeding under section ~~71-150~~ shall be
10 summary in its nature and triable as an equity action and shall be
11 heard by the Director of Regulation and Licensure or by a hearing
12 officer designated by the director under rules and regulations
13 of the department. Affidavits may be received in evidence in the
14 discretion of the director or hearing officer. The department
15 shall have the power to administer oaths, to subpoena witnesses
16 and compel their attendance, and to issue subpoenas duces tecum
17 and require the production of books, accounts, and documents in
18 the same manner and to the same extent as the district courts
19 of the state. Depositions may be used by either party. Upon the
20 completion of any hearing held under this section, the director
21 shall, if the petition is brought with respect to subdivision
22 ~~(15)~~ of section ~~71-148~~, make findings as to whether the licensee's
23 conduct was necessary to save the life of a mother whose life was
24 endangered by a physical disorder, physical illness, or physical
25 injury, including a life-endangering physical condition caused by

1 or arising from the pregnancy itself, and shall have the authority
2 through entry of an order to exercise in his or her discretion any
3 or all of the following powers, irrespective of the petition:

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

5 (b) Place the credentialed person on probation;

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

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

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

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

15 (g) Dismiss the action.

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

24 (3) The credentialed person shall not engage in the
25 practice of a profession after a credential to practice such

1 ~~profession is revoked or during the time for which it is suspended.~~
2 ~~If a credential is suspended, the suspension shall be for a~~
3 ~~definite period of time to be set by the director. The director may~~
4 ~~provide that the credential shall be automatically reinstated upon~~
5 ~~expiration of such period, reinstated if the terms and conditions~~
6 ~~as set by the director are satisfied, or reinstated subject to~~
7 ~~probation or limitations or conditions upon the practice of the~~
8 ~~credentialed person. If such credential is revoked, such revocation~~
9 ~~shall be for all times, except that at any time after the~~
10 ~~expiration of two years, application may be made for reinstatement~~
11 ~~pursuant to section 71-161.04.~~

12 Upon the completion of any hearing held regarding
13 discipline of a credential, the director may dismiss the action or
14 impose any of the following sanctions:

- 15 (1) Censure;
16 (2) Probation;
17 (3) Limitation;
18 (4) Civil penalty;
19 (5) Suspension; or
20 (6) Revocation.

21 Sec. 97. Section 71-161.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-161.02 The authority of the Director of Regulation
24 and Licensure to discipline a licensee, certificate holder, or
25 registrant by placing him or her on probation pursuant to section

1 ~~71-155 shall include, but not be limited to, the following:~~

2 If any discipline is imposed pursuant to section 96 of
3 this act, the director may, in addition to any other terms and
4 conditions of that discipline:

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

12 (2) ~~To require the licensee, certificate holder, or~~
13 ~~registrant~~ Require the credential holder to submit to a complete
14 diagnostic examination by one or more physicians or other qualified
15 professionals appointed by the director. If the director requires
16 the licensee, certificate holder, ~~or registrant~~ credential holder
17 to submit to such an examination, the director shall receive and
18 consider any other report of a complete diagnostic examination
19 given by one or more physicians or other qualified professionals
20 of the licensee's, certificate holder's, ~~or registrant's~~ credential
21 holder's choice if the licensee, certificate holder, ~~or registrant~~
22 credential holder chooses to make available such a report or
23 reports by his or her physician or physicians or other qualified
24 professionals; and

25 (3) ~~To limit~~ Limit the extent, scope, or type of practice

1 of the ~~licensee, certificate holder, or registrant,~~ credential
2 holder.

3 Sec. 98. Section 71-155.03, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-155.03~~ If a civil penalty is imposed pursuant to
6 section 96 of this act, it shall not exceed twenty thousand
7 dollars. Any civil penalty assessed and unpaid under section 71-155
8 shall constitute a debt to the State of Nebraska which may be
9 collected in the manner of a lien foreclosure or sued for and
10 recovered in a proper form of action in the name of the state
11 in the district court of the county in which the violator resides
12 or owns property. The department may also collect in such action
13 attorney's fees and costs incurred in the collection of the civil
14 penalty. The department shall, within thirty days from receipt,
15 transmit remit any collected civil penalty to the State Treasurer
16 for deposit in the permanent school fund. to be disposed of in
17 accordance with Article VII, section 5, of the Constitution of
18 Nebraska.

19 Sec. 99. If suspension is imposed pursuant to section
20 96 of this act, the credential holder shall not engage in the
21 practice of a profession during the time for which the credential
22 is suspended. The suspension shall be for a definite period of
23 time to be set by the director. The director may provide that the
24 credential shall be (1) automatically reinstated upon expiration of
25 such period, (2) reinstated if the terms and conditions as set by

1 the director are satisfied, or (3) reinstated subject to probation
2 or limitations or conditions upon the practice of the credential
3 holder.

4 Sec. 100. If revocation is imposed pursuant to section 96
5 of this act, the credential holder shall not engage in the practice
6 of the profession after a credential to practice such profession is
7 revoked. Such revocation shall be for all times, except that at any
8 time after the expiration of two years, application may be made for
9 reinstatement pursuant to section 48 of this act.

10 Sec. 101. Section 71-155.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-155.01~~ If a chief medical officer is appointed
13 pursuant to section 81-3201, he or she shall perform the duties of
14 the ~~Director of Regulation and Licensure~~ director for decisions in
15 contested cases under ~~sections 71-150, 71-153 to 71-155, 71-156,~~
16 ~~71-161.02, 71-161.03, 71-161.07, 71-161.11 to 71-161.15, 71-161.17,~~
17 ~~71-161.18, 71-161.20, 71-1,104, 71-1,142, 71-1,147.31, 71-1,147.44,~~
18 ~~and 71-1,147.45.~~ the Uniform Credentialing Act other than contested
19 cases under sections 119 to 123 of this act.

20 Sec. 102. Section 71-159, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-159~~ Both parties to disciplinary proceedings under the
23 Uniform Credentialing Act shall have the right of appeal, and the
24 appeal shall be in accordance with the Administrative Procedure
25 Act. The case shall be heard at a time fixed by the district court.

1 It shall be advanced and take precedence over all other cases upon
2 the court calendar except worker's compensation and criminal cases.

3 Sec. 103. A board may designate one of its professional
4 members to serve as a consultant to the department in reviewing
5 complaints and on issues of professional practice that may arise
6 during the course of an investigation. Such consultation shall
7 not be required for the department to evaluate a complaint or to
8 proceed with an investigation. A board may also recommend or confer
9 with a consultant member of its profession to assist the board or
10 department on issues of professional practice.

11 Sec. 104. (1) If the department determines that a
12 complaint will not be investigated, the department shall notify
13 the complainant of such determination. At the request of the
14 complainant, the appropriate board may review the complaint and
15 provide its recommendation to the department on whether the
16 complaint merits investigation.

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

21 Sec. 105. (1) The department shall advise the appropriate
22 board on the progress of investigations. If requested by the
23 complainant, the identity of the complainant shall not be released
24 to the board.

25 (2) When the department determines that an investigation

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

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

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

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

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

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

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

11 Sec. 106. (1) Reports under sections 129 to 136 of this
12 act, complaints, and investigational records of the department
13 shall not be public records, shall not be subject to subpoena
14 or discovery, and shall be inadmissible in evidence in any
15 legal proceeding of any kind or character except a contested
16 case before the department. Such reports, complaints, or records
17 shall be a public record if made part of the record of a
18 contested case before the department. No person, including, but not
19 limited to, department employees and members of a board, having
20 access to such reports, complaints, or investigational records
21 shall disclose such information in violation of this section,
22 except that the department may exchange such information with law
23 enforcement and other state licensing agencies as necessary and
24 appropriate in the discharge of the department's duties and only
25 under circumstances to ensure against unauthorized access to such

1 information. Violation of this subsection is a Class I misdemeanor.

2 (2) Investigational records, reports, and files
3 pertaining to an application for a credential shall not be a public
4 record until action is taken to grant or deny the application and
5 may be withheld from disclosure thereafter under section 84-712.05.

6 Sec. 107. Section 71-171.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-171.01~~ The (1) Except as provided in subsection (2) of
9 this section, the department shall provide the Attorney General
10 with a copy of all complaints it receives and advise the
11 Attorney General of investigations it makes which may involve
12 any possible violation of statutes or rules and regulations by
13 the credentialed person- a credential holder. The Attorney General
14 shall then determine which, if any, statutes, rules, or regulations
15 the credentialed person credential holder has violated and the
16 appropriate legal action to take. The Attorney General may+ ~~(1)~~
17 ~~Eleet~~ (a) elect to file a petition under section ~~71-150~~ 86 of this
18 act or not to file a petition, (b) ÷ (2) negotiate a voluntary
19 surrender or voluntary limitation pursuant to section ~~71-161.11; or~~
20 ~~(3)~~ 109 of this act, or (c) in cases involving a technical minor
21 or insubstantial violation, refer the matter to the appropriate
22 professional board for the opportunity to resolve the matter by
23 issuance of a letter of concern or to recommend recommending to
24 the Attorney General that he or she enter into an assurance of
25 compliance with the ~~credentialed person~~ credential holder in lieu

1 of filing a petition. ~~Neither a letter of concern nor an An~~
2 assurance of compliance shall not constitute discipline against a
3 ~~eredentialed person.~~ credential holder.

4 (2) This section does not apply to the following
5 professions or businesses: Asbestos abatement, inspection, project
6 design, and training; lead-based paint abatement, inspection,
7 project design, and training; medical radiography; radon
8 detection, measurement, and mitigation; water system operation; and
9 constructing or decommissioning water wells and installing water
10 well pumps and pumping equipment.

11 Sec. 108. Section 71-171.02, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-171.02~~ Upon referral of a matter under section
14 ~~71-171.01~~ 107 of this act by the Attorney General, the professional
15 board may:

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

23 ~~(2)~~ (1) Advise the Attorney General on the content
24 of an agreement to serve as the basis of an assurance of
25 compliance. The Attorney General may contact the ~~eredentialed~~

1 ~~person~~ credential holder to reach, by voluntary agreement, an
 2 assurance of compliance. The assurance shall include a statement
 3 of the statute, rule, or regulation in question, a description of
 4 the conduct that would violate such statute, rule, or regulation,
 5 the assurance of the ~~eredentialed person~~ credential holder that
 6 he or she will not engage in such conduct, and acknowledgment
 7 by the ~~eredentialed person~~ credential holder that violation of
 8 the assurance constitutes unprofessional conduct, as provided by
 9 ~~subdivision (17) of section 71-148.~~ Such assurance shall be signed
 10 by the ~~eredentialed person~~ credential holder and shall become a
 11 part of the public record of the ~~eredentialed person.~~ credential
 12 holder. The ~~eredentialed person~~ credential holder shall not be
 13 required to admit to any violation of the law, and the assurance
 14 shall not be construed as such an admission; or

15 ~~(3)~~ (2) Recommend that the Attorney General file a
 16 petition under section ~~71-150.~~ 86 of this act.

17 Sec. 109. Section 71-161.11, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 ~~71-161.11~~ Any license, permit, certificate, or
 20 registration issued by the department pursuant to Chapter 28,
 21 article 4, or Chapter 71 may be voluntarily surrendered to the
 22 department by the holder permanently, for an indefinite period of
 23 time to be restored at the discretion of the department, or for
 24 a specific and definite period of time as agreed to between the
 25 holder and the department with such license, permit, certificate,

1 or registration to be automatically restored upon the expiration
2 of such period of time. Such former holder shall not engage in
3 any of the practices or activities for which such license, permit,
4 certificate, or registration is required during the period of
5 time for which it has been surrendered, shall be considered as
6 unlicensed during such period of time, and shall not be required to
7 pay any fees during such period of time. Any holder of a license,
8 permit, certificate, or registration issued by the department
9 pursuant to Chapter 28, article 4, or Chapter 71 may agree to
10 a voluntary limitation of such license, permit, certificate, or
11 registration. Such limitation may be placed upon the right of
12 the licensee to practice the profession to such extent, for such
13 time, and under such conditions as agreed to by the director
14 and the licensee. All requirements and procedures relative to the
15 validity of a voluntary limitation of practice statement shall
16 be identical to those outlined in this section for a voluntary
17 surrender statement. Violation of any of the conditions of the
18 voluntary limitation of practice statement by the holder shall
19 be due cause for the refusal of renewal of or the suspension or
20 revocation of the license, permit, certificate, or registration by
21 the department.

22 (1) A credential holder may submit to the department an
23 offer to voluntarily surrender or limit any credential issued by
24 the department pursuant to the Uniform Credentialing Act. Any such
25 offer may be made to surrender or limit the credential permanently,

1 for an indefinite period of time, or for a specific or definite
2 period of time. The offer shall be made in writing and shall
3 include (a) the reason for the offer of voluntary surrender or
4 limitation, (b) whether the offer is for a permanent, indefinite,
5 or definite period of time, and (c) any terms and conditions that
6 the credential holder wishes to have the department consider and
7 apply to the voluntary surrender or limitation of the credential.

8 (2) The department may accept an offer of voluntary
9 surrender or limitation of a credential (a) based on an offer made
10 by the credential holder on his or her own volition, (b) based on
11 an offer made with the agreement of the Attorney General for cases
12 brought under section 107 of this act or the legal counsel of the
13 department for cases brought under sections 119 to 123 of this act
14 to resolve a pending disciplinary matter, (c) in lieu of filing a
15 petition for disciplinary action, or (d) in response to a notice of
16 disciplinary action.

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

23 (4) In all instances, the decision shall be issued in
24 the form of a written order by the director. The order shall
25 be issued within thirty days after receipt of the offer of

1 voluntary surrender or limitation and shall specify (a) whether
2 the department accepts or rejects the offer of voluntary surrender
3 and (b) (i) the terms and conditions under which the voluntary
4 surrender is accepted or (ii) the basis for a rejection of an
5 offer of voluntary surrender. The terms and conditions governing
6 the acceptance of a voluntary surrender shall include, but not be
7 limited to, the duration of the surrender, whether the credential
8 holder may apply to have the credential reinstated, and any terms
9 and conditions for any such reinstatement.

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

14 (6) Violation of any of the terms and conditions of a
15 voluntary surrender or limitation by the credential holder shall
16 be due cause for the refusal of renewal of the credential, for
17 the suspension or revocation of the credential, or for refusal to
18 restore the credential.

19 Sec. 110. Section 71-161.13, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-161.13~~ (1) When any complaint has been filed with the
22 department has received a complaint or report by any person or any
23 report has been made to the Director of Regulation and Licensure
24 director by the Licensee Assistance Program under section 71-172.01
25 75 of this act alleging that an applicant for a credential or a

1 person credentialed to practice any profession ~~or occupation~~ in
2 the state regulated by the department pursuant to Chapter 71 is
3 suffering from habitual intoxication ~~or dependence~~, physical or
4 mental abuse of, dependence on, or active addiction to alcohol,
5 any controlled substance, or any mind-altering substance that
6 impairs the ability to practice the profession or illness, or
7 physical or mental deterioration, or disability that impairs the
8 ability to practice the profession, the Director of Regulation and
9 Licensure director shall investigate such complaint to determine if
10 any reasonable cause exists to question the qualification of the
11 applicant or ~~credentialed person~~ credential holder to practice or
12 to continue to practice such profession.

13 (2) ~~or occupation~~. If the director on the basis of such
14 investigation or, in the absence of such complaint, upon the basis
15 of his or her own independent knowledge finds that reasonable
16 cause exists to question the qualification of the applicant or
17 ~~credentialed person~~ credential holder to practice such profession
18 ~~or occupation~~ because of habitual intoxication or dependence,
19 physical or mental abuse of, dependence on, or active addiction to
20 alcohol, any controlled substance, or any mind-altering substance
21 that impairs the ability to practice the profession or illness, or
22 physical or mental deterioration, or disability that impairs the
23 ability to practice the profession, the director shall report such
24 finding and evidence supporting it to the appropriate ~~professional~~
25 board.

1 (3) If and if such board agrees that reasonable
2 cause exists to question the qualification of such applicant or
3 ~~eredentialed person,~~ credential holder, the board shall appoint
4 a committee of three qualified physicians or other qualified
5 professionals to examine the applicant or ~~eredentialed person~~
6 credential holder and to report their findings and conclusions
7 to the board. The cost of the examination shall be treated as
8 a base cost of credentialing under section 52 of this act. The
9 board shall then consider the findings and the conclusions of the
10 physicians or other qualified professionals and any other evidence
11 or material which may be submitted to that board by the applicant
12 or ~~eredentialed person,~~ credential holder, by the director, or
13 by any other person and shall then determine if the applicant or
14 ~~eredentialed person~~ credential holder is qualified to practice or
15 to continue to practice such profession ~~or occupation~~ in the State
16 of Nebraska.

17 (4) If such board finds the applicant or ~~eredentialed~~
18 ~~person~~ credential holder to be not qualified to practice or to
19 continue to practice such profession ~~or occupation~~ because of
20 ~~habitual intoxication or dependence,~~ physical or mental abuse of,
21 dependence on, or active addiction to alcohol, any controlled
22 substance, or any mind-altering substance that impairs the ability
23 to practice the profession or illness, or physical or mental
24 deterioration, or disability that impairs the ability to practice
25 the profession, the board shall so certify that fact to the

1 director with a recommendation for the denial, refusal of renewal,
 2 limitation, suspension, or revocation of such credential. The
 3 director shall thereupon deny, refuse renewal of, suspend, or
 4 revoke the credential or limit the ~~credential~~ ability of the
 5 ~~credentialed person~~ credential holder to practice such profession
 6 ~~or occupation~~ in the state in such manner and to such extent as
 7 the director determines to be necessary for the protection of the
 8 public.

9 Sec. 111. Section 71-161.14, Reissue Revised Statutes of
 10 Nebraska, is amended to read:

11 ~~71-161.14~~ (1) The denial, refusal of renewal, limitation,
 12 ~~or suspension,~~ ~~or revocation~~ of a credential as provided in section
 13 ~~71-161.13~~ 110 of this act shall continue in effect until reversed
 14 on appeal pursuant to section 113 of this act or until the cause
 15 of such denial, refusal of renewal, limitation, ~~or suspension,~~
 16 ~~or revocation~~ no longer exists and the appropriate professional
 17 board finds, upon competent ~~medical~~ examination or evaluation by
 18 a qualified physician or ~~physicians,~~ other qualified professional
 19 selected or approved by the department, that the applicant, ~~former~~
 20 ~~credentialed person,~~ or ~~credentialed person~~ credential holder is
 21 qualified to engage in the practice of the profession. The cost
 22 of the examination or evaluation shall be paid by the applicant
 23 or credential holder. ~~or occupation for which he or she made~~
 24 ~~application, for which he or she was formerly credentialed, or~~
 25 ~~for which he or she was credentialed subject to limitation and~~

1 ~~certifies that fact to the Director of Regulation and Licensure.~~

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

8 Sec. 112. Section 71-161.15, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-161.15~~ Refusal of an applicant or ~~credentialed person~~
11 credential holder to submit to a physical or mental examination
12 or chemical dependency evaluation requested by the appropriate
13 ~~professional board or the department~~ pursuant to ~~sections 71-161.12~~
14 ~~to 71-161.16~~ section 110 or 111 of this act to determine his or
15 her qualifications to practice or to continue in the practice of
16 the profession ~~or occupation~~ for which application was made or for
17 which he or she is credentialed by the department ~~pursuant to the~~
18 ~~provisions of Chapter 71~~ shall be just cause for denial of the
19 application or for refusal of renewal or suspension of his or her
20 credential automatically by the director until such examination or
21 evaluation has been made.

22 Sec. 113. Section 71-161.16, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-161.16~~ Any applicant, licensee, certificate holder,
25 ~~or registrant~~ or credential holder shall have the right to appeal

1 ~~from request a hearing on an~~ order denying, refusing renewal
2 of, limiting, suspending, or revoking a ~~license, certificate, or~~
3 ~~registration~~ credential to practice a profession ~~or occupation~~
4 regulated by the Department of Health and Human Services
5 Regulation and Licensure pursuant to Chapter 71 because of habitual
6 ~~intoxication or dependence, physical or mental~~ abuse of, dependence
7 on, or active addiction to alcohol, any controlled substance, or
8 any mind-altering substance that impairs the ability to practice
9 the profession or illness, or physical or mental deterioration, or
10 disability that impairs the ability to practice the profession.
11 Such ~~appeal hearing~~ shall be conducted in accordance with the
12 Administrative Procedure Act. The denial, refusal of renewal,
13 limitation, suspension, or revocation of a credential as provided
14 in section 110 of this act shall continue in effect until reversed
15 on appeal unless otherwise disposed of pursuant to section 111 of
16 this act.

17 Sec. 114. Section 71-164, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-164~~ Any person engaging in the practice of any
20 profession, ~~for which a license, certificate, or registration~~
21 ~~is required by the Uniform Licensing Law, or business~~ without such
22 ~~license, certificate, or registration~~ the appropriate credential
23 may be restrained by temporary and permanent injunctions.

24 Sec. 115. It shall be prima facie evidence of practice
25 without being credentialed when any of the following conditions

1 exist:

2 (1) The person admits to engaging in practice;

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

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

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

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

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

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

16 Sec. 116. Section 71-164.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-164.01~~ (1) The department may assess an administrative
19 penalty of ten dollars per day for each day that evidence
20 exists of practice prior to issuance, renewal after expiration,
21 or reinstatement of a credential ~~of an individual or entity listed~~
22 ~~in section 71-162.~~ to practice a profession or operate a business.

23 The total penalty shall not exceed one thousand dollars.

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

- 1 ~~(a) The person admits to engaging in practice;~~
- 2 ~~(b) Staffing records or other reports from the employer~~
3 ~~of the person indicate that the person was engaged in practice;~~
- 4 ~~(c) Billing or payment records document the provision of~~
5 ~~service, care, or treatment by the person;~~
- 6 ~~(d) Service, care, or treatment records document the~~
7 ~~provision of service, care, or treatment by the person;~~
- 8 ~~(e) Appointment records indicate that the person was~~
9 ~~engaged in practice;~~
- 10 ~~(f) Water well registrations or other government records~~
11 ~~indicate that the person was engaged in practice; and~~
- 12 ~~(g) The person or entity opens a business or practice~~
13 ~~site and announces or advertises that the business or site is open~~
14 ~~to provide service, care, or treatment.~~
- 15 ~~(3) (2) When the department assesses an administrative~~
16 ~~penalty, the department shall provide written notice of the~~
17 ~~assessment to the person. The notice shall be delivered in the~~
18 ~~manner prescribed by the department and shall include notice of the~~
19 ~~opportunity for a hearing.~~
- 20 ~~(4) (3) The department shall, within thirty days after~~
21 ~~receipt, transmit remit an administrative penalty to the State~~
22 ~~Treasurer for credit to the permanent school fund. to be disposed~~
23 ~~of in accordance with Article VII, section 5, of the Constitution~~
24 ~~of Nebraska. An administrative penalty assessed and unpaid under~~
25 ~~this section shall constitute a debt to the State of Nebraska which~~

1 may be collected in the manner of a lien foreclosure or sued for
 2 and recovered in a proper form of action in the name of the state
 3 in the district court of the county in which the violator resides
 4 or owns property. The department may also collect in such action
 5 attorney's fees and costs incurred directly in the collection of
 6 the administrative penalty.

7 Sec. 117. Section 71-166, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 ~~71-166~~ Any person who (1) presents to the department a
 10 ~~diploma or certificate~~ document which is false or of which he
 11 or she is not the rightful owner for the purpose of procuring
 12 a ~~license, certificate, or registration,~~ who credential, (2)
 13 falsely impersonates anyone to whom a ~~license, certificate, or~~
 14 ~~registration~~ credential has been issued by the department, ~~who~~ (3)
 15 falsely holds himself or herself out to be a person ~~licensed,~~
 16 ~~certified, or registered~~ credentialed by the department, ~~or who~~
 17 (4) aids and abets another who is not licensed, ~~certified, or~~
 18 ~~registered~~ credentialed to practice ~~that profession in practicing~~
 19 ~~a licensed, certified, or registered profession~~ a profession that
 20 requires a credential, or (5) files or attempts to file with the
 21 department any false or forged diploma, certificate, or affidavit
 22 of identification or qualification shall be guilty of a Class IV
 23 felony.

24 Sec. 118. Section 71-167, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

1 ~~71-167~~ Any person violating any of the provisions of
2 the Uniform ~~Licensing Law~~, Credentialing Act, except as specific
3 penalties are ~~herein~~ otherwise imposed in the act, shall be guilty
4 of a Class III misdemeanor. Any person for a second violation of
5 any of the provisions of the ~~Uniform Licensing Law~~ wherein act, for
6 which another specific penalty is not expressly imposed, shall be
7 guilty of a Class II misdemeanor.

8 Sec. 119. (1) Sections 119 to 123 of this act apply
9 to the following professions and businesses: Asbestos abatement,
10 inspection, project design, and training; lead-based paint
11 abatement, inspection, project design, and training; medical
12 radiography; radon detention, measurement, and mitigation; water
13 system operation; and constructing or decommissioning water wells
14 and installing water well pumps and pumping equipment.

15 (2) If an applicant for an initial credential to practice
16 a profession or operate a business does not meet all of the
17 requirements for the credential, the department shall deny issuance
18 of the credential. If an applicant for an initial credential or
19 a credential holder applying for renewal of the credential has
20 committed any of the acts set out in section 78 or 82 of this act,
21 as applicable, the department may deny issuance or refuse renewal
22 of the credential or may issue or renew the credential subject to
23 any of the terms imposed under section 96 of this act in order to
24 protect the public.

25 Sec. 120. (1) A credential to practice a profession

1 or operate a business subject to section 119 of this act may
2 be denied, refused renewal, or have disciplinary measures taken
3 against it in accordance with section 96 of this act on any of the
4 grounds set out in section 78 or 82 of this act, as applicable.
5 The department shall obtain the advice of the appropriate board
6 in carrying out these duties. If the department determines to
7 deny, refuse renewal of, or take disciplinary action against
8 a credential, the department shall send to the applicant or
9 credential holder a notice to the last address of record. The
10 notice shall state the determination of the department, the reasons
11 for the determination, a description of the nature of the violation
12 and the statute, rule, or regulation violated, and the nature
13 of the action being taken. The denial, refusal to renew, or
14 disciplinary action shall become final thirty days after the
15 mailing of the notice unless the applicant or credential holder,
16 during such thirty-day period, makes a written request for a
17 hearing.

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

1 Sec. 121. A complaint submitted to the department
2 regarding a credential holder subject to section 119 of this act
3 shall be confidential. A person making such a complaint shall be
4 immune from criminal or civil liability of any nature, whether
5 direct or derivative, for filing a complaint or for disclosure of
6 documents, records, or other information to the department.

7 Sec. 122. (1) If the department determines that an
8 emergency exists requiring immediate action against a credential
9 subject to section 119 of this act, the department may, without
10 notice or hearing, issue an order reciting the existence of such
11 emergency and requiring such action be taken as the department
12 deems necessary to meet the emergency, including, but not limited
13 to, suspension or limitation of the credential. Such order shall
14 become effective immediately. Any credential holder to whom such
15 order is directed shall comply immediately. Such order shall become
16 final ten days after mailing of the order unless the credential
17 holder, during such period, makes a written request for a hearing.

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

1 Administrative Procedure Act.

2 Sec. 123. If an order issued after a hearing under
3 section 120 or 122 of this act is adverse to the credential
4 holder, the costs shall be charged to him or her as in ordinary
5 civil actions in the district court, but if the department is the
6 unsuccessful party, the department shall pay the costs. Witness
7 fees and costs may be taxed according to the rules prevailing
8 in the district court. All costs accrued at the instance of the
9 department when it is the successful party, which the department
10 certifies cannot be collected from the other party, shall be paid
11 out of any available funds in the Professional and Occupational
12 Credentialing Cash Fund.

13 Sec. 124. Section 71-168, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~71-168~~ (1) The department shall enforce the Uniform
16 ~~Licensing Law~~ Credentialing Act and for that purpose shall make
17 necessary investigations. Every ~~credentialed person listed under~~
18 ~~subsection (4) of this section~~ credential holder and every member
19 of a ~~professional~~ board shall furnish the department such evidence
20 as he or she may have relative to any alleged violation which is
21 being investigated.

22 (2) Every ~~credentialed person listed under subsection (4)~~
23 ~~of this section~~ credential holder shall report to the department
24 the name of every person without a credential that he or she
25 has reason to believe is engaged in practicing any profession or

1 operating any business for which a credential is required by the
2 Uniform ~~Licensing Law~~ Credentialing Act. The department may, along
3 with the Attorney General and other law enforcement agencies,
4 investigate such reports or other complaints of unauthorized
5 practice. The ~~professional~~ appropriate board may issue an order
6 to cease and desist the unauthorized practice of such profession or
7 the unauthorized operation of such business as a measure to obtain
8 compliance with the applicable credentialing requirements by the
9 person prior to referral of the matter to the Attorney General for
10 action. Practice of such profession or operation of such business
11 without a credential after receiving a cease and desist order is a
12 Class III felony.

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

18 ~~(4) Every credentialed person regulated under the~~
19 ~~Advanced Practice Registered Nurse Licensure Act, the Certified~~
20 ~~Registered Nurse Anesthetist Act, the Clinical Nurse Specialist~~
21 ~~Practice Act, the Emergency Medical Services Act, the Licensed~~
22 ~~Practical Nurse-Certified Act, the Nebraska Certified Nurse~~
23 ~~Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse~~
24 ~~Practice Act, the Nurse Practitioner Act, the Occupational Therapy~~
25 ~~Practice Act, the Uniform Controlled Substances Act, the Uniform~~

1 Licensing Law except pharmacist interns, the Wholesale Drug
2 Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701
3 to 71-4719, or 71-6053 to 71-6068 shall, within thirty days of an
4 occurrence described in this subsection, report to the department
5 in such manner and form as the department may require by rule and
6 regulation whenever he or she:

7 (a) Has first-hand knowledge of facts giving him or
8 her reason to believe that any person in his or her profession
9 has committed acts indicative of gross incompetence, a pattern
10 of negligent conduct as defined in subdivision (5)(e) of section
11 71-147, or unprofessional conduct, may be practicing while his
12 or her ability to practice is impaired by alcohol, controlled
13 substances, narcotic drugs, or physical, mental, or emotional
14 disability, or has otherwise violated such regulatory provisions
15 governing the practice of the profession;

16 (b) Has first-hand knowledge of facts giving him or her
17 reason to believe that any person in another profession regulated
18 under such regulatory provisions has committed acts indicative
19 of gross incompetence or may be practicing while his or her
20 ability to practice is impaired by alcohol, controlled substances,
21 narcotic drugs, or physical, mental, or emotional disability. The
22 requirement to file a report under subdivision (a) or (b) of this
23 subsection shall not apply (i) to the spouse of the person, (ii)
24 to a practitioner who is providing treatment to such person in
25 a practitioner-patient relationship concerning information obtained

1 or discovered in the course of treatment unless the treating
2 practitioner determines that the condition of the person may be of
3 a nature which constitutes a danger to the public health and safety
4 by the person's continued practice, or (iii) when a credentialed
5 person who is chemically impaired enters the Licensee Assistance
6 Program authorized by section 71-172.01 except as provided in such
7 section, or

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

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

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

21 (iii) Adverse judgments, settlements, or awards arising
22 out of professional liability claims, including settlements made
23 prior to suit in which the patient releases any professional
24 liability claim against the credentialed person, or adverse action
25 by an insurance company affecting professional liability coverage.

1 The department may define by rule and regulation what constitutes
2 a settlement that would be reportable when a credentialed person
3 refunds or reduces a fee or makes no charge for reasons related to
4 a patient or client complaint other than costs;

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

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

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

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

22 (5) A report submitted by a professional liability
23 insurance company on behalf of a credentialed person shall
24 be sufficient to satisfy the credentialed person's reporting
25 requirement under subsection (4) of this section.

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

19 Sec. 125. (1) Every credential holder except pharmacist
 20 interns shall, within thirty days of an occurrence described in
 21 this subsection, report to the department in such manner and form
 22 as the department may require whenever he or she:

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

25 (i) Has acted with gross incompetence or gross

1 negligence;

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

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

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

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

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

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

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

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

21 (i) Loss of privileges in a hospital or other health
22 care facility due to alleged incompetence, negligence, unethical or
23 unprofessional conduct, or physical, mental, or chemical impairment
24 or the voluntary limitation of privileges or resignation from
25 the staff of any health care facility when that occurred while

1 under formal or informal investigation or evaluation by the
2 facility or a committee of the facility for issues of clinical
3 competence, unprofessional conduct, or physical, mental, or
4 chemical impairment;

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

8 (iii) An adverse judgment, settlement, or award arising
9 out of a professional liability claim, including a settlement made
10 prior to suit in which the consumer releases any professional
11 liability claim against the credentialed person, or adverse action
12 by an insurance company affecting professional liability coverage.

13 The department may define what constitutes a settlement that would
14 be reportable when a credential holder refunds or reduces a fee or
15 makes no charge for reasons related to a consumer complaint other
16 than costs;

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

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

25 (vi) Loss of membership in, or discipline of a

1 credential related to the applicable profession by, a professional
2 organization due to alleged incompetence, negligence, unethical
3 or unprofessional conduct, or physical, mental, or chemical
4 impairment; or

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

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

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

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

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

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

25 Sec. 126. (1) A report made to the department under

1 section 124 or 125 of this act shall be confidential.

2 (2) Any person making such a report to the department,
3 except a person who is self-reporting, shall be completely immune
4 from criminal or civil liability of any nature, whether direct or
5 derivative, for filing a report or for disclosure of documents,
6 records, or other information to the department under section 124
7 or 125 of this act.

8 (3) Persons who are members of committees established
9 under the Patient Safety Improvement Act or sections 25-12,123,
10 71-2046 to 71-2048, and 71-7901 to 71-7903 or witnesses before such
11 committees shall not be required to report under section 124 or 125
12 of this act. Any person who is a witness before such a committee
13 shall not be excused from reporting matters of first-hand knowledge
14 that would otherwise be reportable under section 124 or 125 of
15 this act only because he or she attended or testified before such
16 committee.

17 (4) Documents from original sources shall not be
18 construed as immune from discovery or use in actions under section
19 125 of this act.

20 Sec. 127. Section 71-168.02, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 ~~71-168.02~~ (1) A health care facility licensed under the
23 Health Care Facility Licensure Act or a peer review organization
24 or professional association of a health care profession regulated
25 under the ~~Advanced Practice Registered Nurse Licensure Act,~~ the

1 Certified Registered Nurse Anesthetist Act, the Clinical Nurse
2 Specialist Practice Act, the Emergency Medical Services Act, the
3 Licensed Practical Nurse-Certified Act, the Nebraska Certified
4 Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the
5 Nurse Practice Act, the Nurse Practitioner Act, the Occupational
6 Therapy Practice Act, the Uniform Controlled Substances Act, the
7 Uniform Licensing Law, the Wholesale Drug Distributor Licensing
8 Act, or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or
9 71-6053 to 71-6068, Uniform Credentialing Act shall report to
10 the department, on a form and in the manner specified by the
11 department, by rule and regulation, any facts known to them, the
12 facility, organization, or association, including, but not limited
13 to, the identity of the practitioner credential holder and patient,
14 consumer, when the facility, organization, or association:

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

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

1 impairment.

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

4 (2) A report made to the department under this section
5 shall be confidential, ~~and treated in the same manner as complaints~~
6 ~~and investigative files under subsection (7) of section 71-168.01.~~
7 The facility, organization, association, or person making such
8 report shall be completely immune from criminal or civil liability
9 of any nature, whether direct or derivative, for filing a report or
10 for disclosure of documents, records, or other information to the
11 department under this section. ~~The reports and information shall~~
12 ~~be subject to the investigatory and enforcement provisions of the~~
13 ~~regulatory provisions listed in subsection (1) of this section.~~
14 Nothing in this subsection shall be construed to require production
15 of records protected by section 25-12,123, 71-2048, or 71-7903 or
16 patient safety work product under the Patient Safety Improvement
17 Act except as otherwise provided in any of such sections or such
18 act.

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

1 with Article VII, section 5, of the Constitution of Nebraska.

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

10 Sec. 128. Section 71-147.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-147.01~~ No member of a peer review committee of a state
13 or local association or society composed of ~~health practitioners~~
14 ~~licensed pursuant to the provisions of Chapter 71, article 1,~~
15 persons credentialed under the Uniform Credentialing Act shall be
16 liable in damages to any person for slander, libel, defamation
17 of character, breach of any privileged communication, or otherwise
18 for any action taken or recommendation made within the scope of
19 the functions of such committee, if such committee member acts
20 without malice and in the reasonable belief that such action or
21 recommendation is warranted by the facts known to ~~him~~ such member
22 after a reasonable effort is made to obtain the facts on which such
23 action is taken or recommendation is made.

24 Sec. 129. Section 71-1,199, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-1,199~~ Unless such knowledge or information is based
 2 on confidential medical records protected by the confidentiality
 3 provisions of the federal Public Health Services Act, 42 U.S.C.
 4 290dd-2, and federal administrative rules and regulations, as such
 5 act and rules and regulations existed on January 1, 2007:

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

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

15 Sec. 130. Section 71-1,200, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 ~~71-1,200~~ Any insurer shall report to the department, on
 18 a form and in the manner specified by the department by rule and
 19 regulation, any facts known to the insurer, including, but not
 20 limited to, the identity of the ~~practitioner~~ credential holder and
 21 ~~patient, consumer,~~ when the insurer:

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

1 person is 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 ~~practitioner,~~ person required to be credentialed whether or not
7 such person is credentialed, including settlements made prior to
8 suit in which the consumer releases any professional liability
9 claim against the credentialed person, arising out of the acts or
10 omissions of the ~~practitioner,~~ such person;

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

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

22 The report shall be made within thirty days after the
23 date of the action, event, or request. Nothing in this section or
24 section 71-1,199 shall be construed to require an insurer to report
25 based on information gained due to the filing by a practitioner or

1 on behalf of a practitioner of a claim for payment under his or her
2 health insurance policy.

3 Sec. 131. A report made under section 129 or 130 of
4 this act shall be made within thirty days after the date of the
5 violation, action, event, or request. Nothing in such sections
6 shall be construed to require an insurer to report based on
7 information gained due to the filing of a claim for payment under a
8 health insurance policy by or on behalf of a person required to be
9 credentialed whether or not such person is credentialed.

10 Sec. 132. For purposes of sections 129 and 130 of this
11 act, the department shall accept reports made to it under the
12 Nebraska Hospital-Medical Liability Act or in accordance with
13 national practitioner data bank requirements of the federal Health
14 Care Quality Improvement Act of 1986, as such act existed on
15 January 1, 2007, and may require a supplemental report to the
16 extent such reports do not contain the information required by the
17 department. For purposes of sections 129 and 130 of this act, the
18 department shall accept a copy of a report made to any governmental
19 agency charged by law with carrying out any of the provisions
20 of the Uniform Credentialing Act or any person authorized by law
21 to make arrests within the State of Nebraska and may require a
22 supplemental report to the extent such copy does not contain the
23 information required by the department.

24 Sec. 133. Section 71-1,201, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-1,201~~ Any insurer who fails or neglects to make
2 a report to or provide such information as requested by the
3 department pursuant to section ~~71-1,199~~ ~~or 71-1,200~~ within a
4 reasonable time 129 or 130 of this act within thirty days after
5 the violation, action, event, or request is guilty of a Class IV
6 III misdemeanor. Any insurer who violates this section a second
7 or subsequent time is guilty of a Class II misdemeanor. ~~unless~~
8 ~~such insurer has reported the required facts to a law enforcement~~
9 ~~agency.~~

10 Sec. 134. Section 71-1,202, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-1,202~~ To the extent that ~~such~~ reports made under
13 section 129 or 130 of this act contain or relate to privileged
14 communications between patient consumer and ~~practitioner,~~
15 credential holder, such reports shall be treated by the department
16 as privileged communications and shall be considered to be part of
17 the investigational records of the department. Such reports may not
18 be obtained by legal discovery proceedings or otherwise disclosed
19 unless the privilege is waived by the ~~patient~~ consumer involved
20 or the reports are made part of the record in a contested case
21 under section ~~71-154,~~ 86 of this act, in which case such reports
22 shall only be disclosed to the extent they are made a part of such
23 record.

24 Sec. 135. Section 71-1,204, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-1,204~~ Any insurer or employee of an insurer making a
 2 report as required by section ~~71-1,199~~ ~~or 71-1,200~~ 129 or 130 of
 3 this act shall be immune from criminal penalty of any kind or from
 4 civil liability or other penalty for slander, libel, defamation,
 5 breach of the privilege between ~~patient~~ consumer and physician or
 6 between ~~client~~ consumer and professional counselor, or violation
 7 of the laws of the State of Nebraska relating to the business
 8 of insurance that may be incurred or imposed on account of or in
 9 connection with the making of such report.

10 Sec. 136. Section 71-1,205, Reissue Revised Statutes of
 11 Nebraska, is amended to read:

12 ~~71-1,205~~ Nothing contained in sections ~~71-1,198~~ ~~to~~
 13 ~~71-1,205~~ 129 to 136 of this act shall be construed so as
 14 to require any ~~practitioner~~ credential holder to violate a
 15 ~~practitioner-patient~~ privilege between a credential holder and a
 16 consumer.

17 Sec. 137. Section 71-1,339, Revised Statutes Cumulative
 18 Supplement, 2006, as amended by section 362, Legislative Bill 296,
 19 One Hundredth Legislature, First Session, 2007, is amended to read:

20 ~~71-1,339~~ The clerk of any county or district court in
 21 this state shall report to the ~~Division of Public Health of the~~
 22 ~~Department of Health and Human Services~~ department the conviction
 23 of any person licensed, certified, ~~or registered~~ credentialed
 24 by the department under the ~~Advanced Practice Registered Nurse~~
 25 ~~Licensure Act, the Certified Registered Nurse Anesthetist Act,~~

1 the Clinical Nurse Specialist Practice Act, the Emergency Medical
2 Services Act, the Licensed Practical Nurse-Certified Act, the
3 Nebraska Certified Nurse Midwifery Practice Act, the Nebraska
4 Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner
5 Act, the Occupational Therapy Practice Act, the Uniform Controlled
6 Substances Act, the Uniform Licensing Law, the Wholesale Drug
7 Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701
8 to 71-4719, or 71-6053 to 71-6068 Uniform Credentialing Act of any
9 felony or of any misdemeanor involving the use, sale, distribution,
10 administration, or dispensing of a controlled substance, alcohol
11 or chemical impairment, or substance abuse and shall also report
12 a judgment against any such licensee, certificate holder, or
13 ~~registrant~~ credential holder arising out of a claim of professional
14 liability. The Attorney General or city or county prosecutor
15 prosecuting any such criminal action and plaintiff in any such
16 civil action shall provide the court with information concerning
17 the licensure, certification, or registration credential of the
18 defendant or party. Notice to the department shall be filed within
19 thirty days after the date of conviction or judgment in a manner
20 agreed to by the ~~Director of Public Health of the division~~ director
21 and the State Court Administrator.

22 Sec. 138. Section 71-168.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-168.01~~ (1) Any person may make a complaint and request
25 investigation of an alleged violation of the Uniform Licensing Law

1 Credentialing Act or rules and regulations issued under such ~~law-~~
2 act. A complaint submitted to the department shall be confidential,
3 and a person making a complaint shall be immune from criminal or
4 civil liability of any nature, whether direct or derivative, for
5 filing a complaint or for disclosure of documents, records, or
6 other information to the department.

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

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

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

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

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

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

24 A complaint submitted to the department shall be
25 ~~confidential,~~ and a person making a complaint shall be immune

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

4 (2) If the department determines that a complaint will
5 not be investigated, the department shall notify the complainant
6 of such determination. At the request of the complainant, the
7 appropriate professional board may review the complaint and provide
8 its recommendation to the department on whether the complaint
9 merits investigation.

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

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

22 (5) The department shall advise the appropriate
23 professional board on the progress of investigations. If requested
24 by the complainant, the identity of the complainant shall not be
25 released to the board. When the department determines that an

1 investigation is complete, the department shall consult with the
2 board to obtain its recommendation for submission to the Attorney
3 General. In making a recommendation, the board may review all
4 investigative reports and have full access to the investigational
5 file of the department and any previous investigational information
6 in the files of the department on the credentialed person that may
7 be relevant to the investigation, except that reports or other
8 documents of any law enforcement agency provided to the department
9 shall not be available for board review except to the extent such
10 law enforcement agency gives permission for release to the board
11 and reports provided by any other agency or public or private
12 entity, which reports are confidential in that agency's or entity's
13 possession and are provided with the express expectation that the
14 report will not be disclosed, may be withheld from board review.
15 The recommendation of the board shall be made part of the completed
16 investigational report of the department and submitted to the
17 Attorney General. The recommendation of the board shall include,
18 but not be limited to:

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

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

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

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

6 ~~(7) Complaints or investigational records of the~~
7 ~~department shall not be public records, shall not be subject to~~
8 ~~subpoena or discovery, and shall be inadmissible in evidence in~~
9 ~~any legal proceeding of any kind or character except a contested~~
10 ~~case before the department. Such complaints or records shall be~~
11 ~~a public record if made part of the record of a contested case~~
12 ~~before the department. No person, including, but not limited to,~~
13 ~~department employees and members of a professional board, having~~
14 ~~access to such complaints or investigational records shall disclose~~
15 ~~such information in violation of this section, except that the~~
16 ~~department may exchange such information with law enforcement and~~
17 ~~other state licensing agencies as necessary and appropriate in the~~
18 ~~discharge of the department's duties and only under circumstances~~
19 ~~to ensure against unauthorized access to such information.~~
20 ~~Violation of this subsection is a Class I misdemeanor.~~

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

1 Sec. 139. Section 71-171, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-171~~ Upon the request of the department, the Attorney
4 General shall institute in the name of the state the proper
5 civil or criminal proceedings against any person regarding whom a
6 complaint has been made, charging him or her with violation of any
7 of the provisions of the Uniform ~~Licensing Law~~, Credentialing Act,
8 and the county attorney, at the request of the Attorney General
9 or of the department, shall appear and prosecute such action when
10 brought in his or her county.

11 Sec. 140. Section 71-17,131, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 ~~71-17,131~~ Sections ~~71-17,131~~ ~~to 71-17,141~~ 140 to 151 of
14 this act shall be known and may be cited as the Advanced Practice
15 Registered Nurse ~~Licensure~~ Practice Act.

16 Sec. 141. Section 71-17,132, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-17,132~~ The Legislature finds and declares that:

19 (1) Because of the geographic maldistribution of health
20 care services in Nebraska, it is necessary to utilize the skills
21 and proficiency of existing health professionals more efficiently;

22 (2) It is necessary to encourage the more effective
23 utilization of the skills of registered nurses by enabling them to
24 perform advanced roles in nursing; and

25 (3) The purpose of the Advanced Practice Registered

1 Nurse ~~Licensure~~ Practice Act is established to encourage registered
2 nurses to perform advanced roles in nursing.

3 Sec. 142. Section 71-17,133, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-17,133~~ For purposes of the Advanced Practice
6 Registered Nurse ~~Licensure Act~~ and ~~except as provided in section~~
7 ~~71-1708,~~ Practice Act and elsewhere in the Uniform Credentialing
8 Act, unless the context otherwise requires, the definitions
9 definition found in section 71-1,132.05 shall apply. 143 of this
10 act applies.

11 Sec. 143. Board means the Board of Advanced Practice
12 Registered Nurses.

13 Sec. 144. Section 71-17,134, Revised Statutes Cumulative
14 Supplement, 2006, as amended by section 36, Legislative Bill 185,
15 One Hundredth Legislature, First Session, 2007, is amended to read:

16 ~~71-17,134 (1)~~ The Board of Advanced Practice Registered
17 Nurses is established. The purpose of the board is to (a) provide
18 for the health, safety, and welfare of the citizens, (b) ensure
19 that licensees serving the public meet minimum standards of
20 proficiency and competency, and (c) control the profession in
21 the interest of consumer protection.

22 ~~(2)(a)~~ (1) (1) Until July 1, 2007, the board shall consist
23 of ~~(i)~~ (a) five advanced practice registered nurses representing
24 different advanced practice registered nurse specialties for which
25 a license has been issued, ~~(ii)~~ (b) five physicians licensed under

1 the Uniform Licensing Law to practice medicine in Nebraska, at
2 least three of whom shall have a current collaborating relationship
3 with an advanced practice registered nurse, ~~(iii)~~ (c) three
4 consumer members, and ~~(iv)~~ (d) one licensed pharmacist.

5 ~~(b)~~ (2) On and after July 1, 2007, the board shall
6 consist of:

7 ~~(i)~~ (a) One nurse practitioner holding a license under
8 the Nurse Practitioner Practice Act, one certified nurse midwife
9 holding a license under the ~~Nebraska~~ Certified Nurse Midwifery
10 Practice Act, one certified registered nurse anesthetist holding a
11 license under the Certified Registered Nurse Anesthetist Practice
12 Act, and one clinical nurse specialist holding a license under
13 the Clinical Nurse Specialist Practice Act, except that the
14 initial clinical nurse specialist appointee may be a clinical
15 nurse specialist practicing pursuant to the Nurse Practice Act as
16 such act existed prior to July 1, 2007. Of the initial appointments
17 under this subdivision, one shall be for a two-year term, one shall
18 be for a three-year term, one shall be for a four-year term, and
19 one shall be for a five-year term. All subsequent appointments
20 under this subdivision shall be for five-year terms;

21 ~~(ii)~~ (b) Three physicians, one of whom shall have a
22 professional relationship with a nurse practitioner, one of whom
23 shall have a professional relationship with a certified nurse
24 midwife, and one of whom shall have a professional relationship
25 with a certified registered nurse anesthetist. Of the initial

1 appointments under this subdivision, one shall be for a three-year
2 term, one shall be for a four-year term, and one shall be for a
3 five-year term. All subsequent appointments under this subdivision
4 shall be for five-year terms; and

5 ~~(iii)~~ (c) Two public members. Of the initial appointments
6 under this subdivision, one shall be for a three-year term, and
7 one shall be for a four-year term. All subsequent appointments
8 under this subdivision shall be for five-year terms. Public members
9 of the board shall have the same qualifications as provided in
10 subsection ~~(1)~~ of section 71-113.

11 ~~(e)~~ (3) Members of the board serving immediately before
12 July 1, 2007, shall serve until members are appointed and qualified
13 under ~~subdivision (2)(b)~~ subsection (2) of this section.

14 ~~(3)~~ The members of the board shall be appointed by the
15 State Board of Health. Members shall be appointed for terms of
16 five years except as otherwise provided in subdivisions ~~(2)(b)~~
17 and ~~(c)~~ of this section. At the expiration of the term of any
18 member, the State Board of Health may consult with appropriate
19 professional organizations regarding candidates for appointment to
20 the Board of Advanced Practice Registered Nurses. Upon expiration
21 of terms, appointments or reappointments shall be made on or
22 before December 1 of each year. Vacancies on the Board of Advanced
23 Practice Registered Nurses shall be filled for the unexpired term
24 by appointments made by the State Board of Health. No member shall
25 serve more than two consecutive terms on the Board of Advanced

1 Practice Registered Nurses.

2 ~~(4) The State Board of Health has power to remove from~~
3 ~~office any member of the Board of Advanced Practice Registered~~
4 ~~Nurses, after a public hearing pursuant to the Administrative~~
5 ~~Procedure Act, for physical or mental incapacity to carry out~~
6 ~~the duties of a board member, for continued neglect of duty, for~~
7 ~~incompetence, for acting beyond the individual member's scope of~~
8 ~~authority, for malfeasance in office, for any cause for which a~~
9 ~~license or certificate in the member's profession involved may be~~
10 ~~suspended or revoked, for a lack of licensure or certification in~~
11 ~~the member's profession, or for other sufficient cause.~~

12 ~~(5) Each member of the Board of Advanced Practice~~
13 ~~Registered Nurses shall receive a per diem of thirty dollars~~
14 ~~per day for each day the member is actually engaged in the~~
15 ~~discharge of his or her official duties and shall be reimbursed for~~
16 ~~travel, lodging, and other necessary expenses incurred as a member~~
17 ~~of the board pursuant to sections 81-1174 to 81-1177.~~

18 ~~(6) The department shall adopt and promulgate rules and~~
19 ~~regulations which define conflicts of interest for members of the~~
20 ~~Board of Advanced Practice Registered Nurses and which establish~~
21 ~~procedures in case such a conflict arises.~~

22 Sec. 145. Section 71-17,135, Revised Statutes Cumulative
23 Supplement, 2006, as amended by section 37, Legislative Bill 185,
24 One Hundredth Legislature, First Session, 2007, is amended to read:

25 71-17,135 The Board of Advanced Practice Registered

1 ~~Nurses board~~ shall:

2 (1) Establish standards for integrated practice
3 agreements between collaborating physicians and certified nurse
4 midwives, and nurse practitioners;

5 (2) Monitor the scope of practice by certified nurse
6 midwives, certified registered nurse anesthetists, clinical nurse
7 specialists, and nurse practitioners;

8 ~~(3) Administer and enforce the Advanced Practice
9 Registered Nurse Licensure Act in order to (a) provide for the
10 health, safety, and welfare of the citizens, (b) ensure that
11 advanced practice registered nurses serving the public meet minimum
12 standards of proficiency and competency, (c) control the profession
13 in the interest of consumer protection, (d) regulate the scope of
14 advanced practice nursing, (e) recommend disciplinary actions as
15 provided in this section, and (f) enforce licensure requirements;~~

16 ~~(4) (3) Recommend disciplinary action relating to
17 licenses of advanced practice registered nurses, certified nurse
18 midwives, certified registered nurse anesthetists, clinical nurse
19 specialists, and nurse practitioners;~~

20 ~~(5) (4) Engage in other activities not inconsistent with
21 the Advanced Practice Registered Nurse Licensure Practice Act, the
22 Certified Nurse Midwifery Practice Act, the Certified Registered
23 Nurse Anesthetist Practice Act, the Clinical Nurse Specialist
24 Practice Act, the Nebraska Certified Nurse Midwifery Practice Act,
25 and the Nurse Practitioner Practice Act; and~~

1 ~~(6) Approve~~ (5) Adopt rules and regulations to implement
 2 the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act, ~~the~~
 3 Certified Nurse Midwifery Practice Act, the Certified Registered
 4 Nurse Anesthetist Practice Act, the Clinical Nurse Specialist
 5 Practice Act, ~~the Nebraska Certified Nurse Midwifery Practice~~
 6 ~~Act,~~ and the Nurse Practitioner Practice Act, for ~~adoption~~ and
 7 promulgation by the department as provided in section 26 of this
 8 act. Such rules and regulations shall also include: (a) Approved
 9 certification organizations and approved certification programs;
 10 and (b) ~~continuing competency requirements~~. The requirements may
 11 ~~include,~~ but not be limited to, ~~continuing education,~~ ~~continuing~~
 12 ~~practice,~~ ~~national recertification,~~ ~~a reentry program,~~ ~~peer review~~
 13 ~~including patient outcomes,~~ ~~examination,~~ or other continuing
 14 ~~competency activities listed in section 71-161.09,~~ (c) grounds for
 15 ~~discipline,~~ (d) ~~issuance,~~ ~~renewal,~~ and ~~reinstatement of licenses,~~
 16 ~~(e) fees,~~ (f) professional liability insurance, ~~+~~ and (g) ~~conflict~~
 17 ~~of interest for board members.~~

18 Sec. 146. Section 71-17,136, Revised Statutes Cumulative
 19 Supplement, 2006, is amended to read:

20 ~~71-17,136~~ The department shall issue a license as an
 21 advanced practice registered nurse to a registered nurse who meets
 22 the requirements of subsection (1) or (3) of section ~~71-17,137.~~
 23 147 of this act. The department may issue a license as an
 24 advanced practice registered nurse to a registered nurse pursuant
 25 to subsection (2) of section ~~71-17,137.~~ 147 of this act.

1 Sec. 147. Section 71-17,137, Revised Statutes Cumulative
2 Supplement, 2006, as amended by section 38, Legislative Bill 185,
3 One Hundredth Legislature, First Session, 2007, is amended to read:

4 ~~71-17,137~~ (1) An applicant for initial licensure as an
5 advanced practice registered nurse shall:

6 (a) Be licensed as a registered nurse under the Nurse
7 Practice Act or have authority based on the Nurse Licensure Compact
8 to practice as a registered nurse in Nebraska;

9 (b) Be a graduate of or have completed a graduate-level
10 advanced practice registered nurse program in a clinical specialty
11 area of certified registered nurse anesthetist, clinical nurse
12 specialist, certified nurse midwife, or nurse practitioner, which
13 program is accredited by a national accrediting body;

14 (c) Be certified as a certified registered nurse
15 anesthetist, a clinical nurse specialist, a certified nurse
16 midwife, or a nurse practitioner, by an approved certifying body
17 or an alternative method of competency assessment approved by
18 the board, pursuant to the Certified Nurse Midwifery Practice
19 Act, the Certified Registered Nurse Anesthetist Practice Act, the
20 Clinical Nurse Specialist Practice Act, ~~the Nebraska Certified~~
21 ~~Nurse Midwifery Practice Act,~~ or the Nurse Practitioner Practice
22 Act, as appropriate to the applicant's educational preparation;

23 (d) ~~Submit a completed written application to the~~
24 ~~department which includes the applicant's social security number~~
25 ~~and appropriate fees established and collected as provided in~~

1 ~~section 71-162,~~

2 ~~(e) (d) Provide evidence as required by rules and~~
3 ~~regulations; and approved by the board and adopted and promulgated~~
4 ~~by the department; and~~

5 ~~(f) (e) Have committed no acts or omissions which are~~
6 ~~grounds for disciplinary action in another jurisdiction or, if such~~
7 ~~acts have been committed and would be grounds for discipline under~~
8 ~~the Nurse Practice Act, the board has found after investigation~~
9 ~~that sufficient restitution has been made.~~

10 (2) The department may issue a license ~~by endorsement~~
11 ~~under this section to an applicant who holds a license from~~
12 ~~another jurisdiction if the licensure requirements of such~~
13 ~~other jurisdiction meet or exceed the requirements for licensure~~
14 ~~as an advanced practice registered nurse under the Advanced~~
15 ~~Practice Registered Nurse Licensure Practice Act. An applicant~~
16 ~~under this subsection shall submit a completed application to~~
17 ~~the department which includes the applicant's social security~~
18 ~~number, fees established and collected as provided in section~~
19 ~~71-162, and other evidence documentation as required by rules and~~
20 ~~regulations, approved by the board and adopted and promulgated by~~
21 ~~the department.~~

22 (3) A person licensed as an advanced practice registered
23 nurse or certified as a certified registered nurse anesthetist or
24 a certified nurse midwife in this state on July 1, 2007, shall
25 be issued a license by the department as an advanced practice

1 registered nurse on such date.

2 ~~(4) A person licensed as an advanced practice registered~~
3 ~~nurse in this state may use the title advanced practice registered~~
4 ~~nurse and the abbreviation APRN.~~

5 Sec. 148. Section 71-17,138, Revised Statutes Cumulative
6 Supplement, 2006, as amended by section 39, Legislative Bill 185,
7 One Hundredth Legislature, First Session, 2007, is amended to read:

8 ~~71-17,138~~ ~~(1)~~ The license of each person licensed under
9 the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act shall
10 be renewed at the same time and in the same manner as renewal
11 of a license for a registered nurse and shall require that the
12 applicant have ~~(a)~~ (1) a license as a registered nurse issued
13 by the state or have the authority based on the Nurse Licensure
14 Compact to practice as a registered nurse in Nebraska, ~~(b)~~ (2)
15 documentation of continuing competency, either by reference, peer
16 review, examination, or one or more of the continuing competency
17 activities listed in section ~~71-161.09~~, as 45 of this act and
18 established by the board in rules and regulations, ~~approved by the~~
19 ~~board and adopted and promulgated by the department,~~ and ~~(c)~~ (3)
20 met any specific requirements for renewal under the Certified Nurse
21 Midwifery Practice Act, the Certified Registered Nurse Anesthetist
22 Practice Act, the Clinical Nurse Specialist Practice Act, ~~the~~
23 ~~Nebraska Certified Nurse Midwifery Practice Act,~~ or the Nurse
24 Practitioner Practice Act, as applicable.

25 ~~(2) The department shall establish and collect fees for~~

1 ~~renewal as provided in section 71-162.~~

2 Sec. 149. Section 71-17,140, Revised Statutes Cumulative
3 Supplement, 2006, as amended by section 41, Legislative Bill 185,
4 One Hundredth Legislature, First Session, 2007, is amended to read:

5 ~~71-17,140~~ (1) An advanced practice registered nurse's
6 license ~~lapses~~ expires if he or she does not renew his or her
7 license to practice as a registered nurse or is not authorized
8 to practice as a registered nurse in this state under the Nurse
9 Licensure Compact.

10 ~~(2) When an advanced practice registered nurse's license~~
11 ~~lapses, the right of the person whose license has lapsed to~~
12 ~~represent himself or herself as an advanced practice registered~~
13 ~~nurse and to practice the activities for which a license is~~
14 ~~required terminates. To restore the license to active status, the~~
15 ~~person shall meet the requirements for renewal which are in effect~~
16 ~~at the time that he or she wishes to restore the license and shall~~
17 ~~pay the renewal fee and the late fee established and collected as~~
18 ~~provided in section 71-162.~~

19 Sec. 150. The department shall establish and collect
20 fees for initial licensure and renewal under the Advanced Practice
21 Registered Nurse Practice Act as provided in sections 51 to 57 of
22 this act.

23 Sec. 151. A person licensed as an advanced practice
24 registered nurse in this state may use the title advanced practice
25 registered nurse and the abbreviation APRN.

1 Sec. 152. Sections 152 to 172 of this act shall be known
2 and may be cited as the Alcohol and Drug Counseling Practice Act.

3 Sec. 153. Section 71-1,351, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-1,351~~ For purposes of sections ~~71-1,351~~ to ~~71-1,361~~
6 the Alcohol and Drug Counseling Practice Act and elsewhere in
7 the Uniform ~~Licensing Law~~, Credentialing Act, unless the context
8 otherwise requires, the definitions found in sections 154 to 160 of
9 this act apply. +

10 ~~(1) Alcohol and drug counseling means providing or~~
11 ~~performing the core functions of an alcohol and drug counselor~~
12 ~~for remuneration;~~

13 ~~(2) Alcohol and drug counselor means a person engaged in~~
14 ~~alcohol and drug counseling;~~

15 ~~(3) Alcohol or drug abuse means the abuse of alcohol~~
16 ~~or other drugs which have significant mood or perception~~
17 ~~changing capacities, which are likely to be physiologically or~~
18 ~~psychologically addictive, and the use of which have negative~~
19 ~~physical, social, or psychological consequences;~~

20 ~~(4) Alcohol or drug dependence means cognitive,~~
21 ~~behavioral, and psychological symptoms indicating the continued~~
22 ~~use of alcohol or other drugs despite significant alcohol or~~
23 ~~drug-related problems;~~

24 ~~(5) Alcohol or drug disorder means a substance-related~~
25 ~~disorder as defined by the department in rules and regulations~~

1 substantially similar with the definitions of the American
2 Psychiatric Association in the Diagnostic and Statistical Manual
3 of Mental Disorders,

4 ~~(6) Board means the Board of Alcohol and Drug Counseling,~~
5 and

6 ~~(7) Core functions means the following twelve activities~~
7 ~~an alcohol and drug counselor performs in the role of counselor:~~
8 ~~Screening, intake, orientation, assessment, treatment planning,~~
9 ~~counseling (individual, group, and significant others), case~~
10 ~~management, crisis intervention, client education, referral,~~
11 ~~reports and record keeping, and consultation with other~~
12 ~~professionals in regard to client treatment and services.~~

13 Sec. 154. Alcohol and drug counseling means providing or
14 performing the core functions of an alcohol and drug counselor for
15 remuneration.

16 Sec. 155. Alcohol and drug counselor means a person
17 engaged in alcohol and drug counseling.

18 Sec. 156. Alcohol or drug abuse means the abuse of
19 alcohol or other drugs which have significant mood or perception
20 changing capacities, which are likely to be physiologically or
21 psychologically addictive, and the use of which have negative
22 physical, social, or psychological consequences.

23 Sec. 157. Alcohol or drug dependence means cognitive,
24 behavioral, and psychological symptoms indicating the continued
25 use of alcohol or other drugs despite significant alcohol or

1 drug-related problems.

2 Sec. 158. Alcohol or drug disorder means a
3 substance-related disorder as defined by the department in
4 rules and regulations substantially similar with the definitions
5 of the American Psychiatric Association in the Diagnostic and
6 Statistical Manual of Mental Disorders.

7 Sec. 159. Board means the Board of Alcohol and Drug
8 Counseling.

9 Sec. 160. Core functions means the following twelve
10 activities an alcohol and drug counselor performs in the
11 role of counselor: Screening, intake, orientation, assessment,
12 treatment planning, counseling (individual, group, and significant
13 others), case management, crisis intervention, client education,
14 referral, reports and record keeping, and consultation with other
15 professionals in regard to client treatment and services.

16 Sec. 161. Membership on the board shall consist of seven
17 professional members and two public members appointed pursuant to
18 section 58 of this act. The members shall meet the requirements
19 of sections 64 and 65 of this act. Three of the professional
20 members shall be licensed alcohol and drug counselors who may
21 also be licensed as psychologists or mental health practitioners,
22 three of the professional members shall be licensed alcohol and
23 drug counselors who are not licensed as psychologists or mental
24 health practitioners, and one of the professional members shall be
25 a psychiatrist, psychologist, or mental health practitioner.

1 Sec. 162. Section 71-1,352, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-1,352~~ (1) The scope of practice for alcohol and
4 drug counseling is the application of general counseling theories
5 and treatment methods adapted to specific addiction theory and
6 research for the express purpose of treating any alcohol or
7 drug abuse, dependence, or disorder. The practice of alcohol and
8 drug counseling consists of the following performance areas which
9 encompass the twelve core functions: Clinical evaluation; treatment
10 planning; counseling; education; documentation; and professional
11 and ethical standards.

12 (2) The performance area of clinical evaluation consists
13 of screening and assessment of alcohol and drug problems, screening
14 of other presenting problems for which referral may be necessary,
15 and diagnosis of alcohol and drug disorders. Clinical evaluation
16 does not include mental health assessment or treatment. An alcohol
17 and drug counselor shall refer a person with co-occurring mental
18 disorders unless such person is under the care of, or previously
19 assessed or diagnosed by, an appropriate practitioner within a
20 reasonable amount of time.

21 (3) The performance area of treatment planning consists
22 of case management, including implementing the treatment plan,
23 consulting, and continuing assessment and treatment planning;
24 referral; and client advocacy.

25 (4) The performance area of counseling consists of

1 individual counseling, group counseling, and family or significant
2 other counseling.

3 (5) The performance area of education consists of
4 education for clients, family of clients, and the community.

5 Sec. 163. Section 71-1,353, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-1,353~~ No person shall engage in alcohol and drug
8 counseling or hold himself or herself out as an alcohol and drug
9 counselor unless he or she is licensed for such purpose pursuant
10 to the Uniform ~~Licensing Law~~, Credentialing Act, except that this
11 section shall not be construed to prevent:

12 (1) Qualified members of other professions who are
13 ~~licensed, certified, or registered~~ credentialed by this state
14 from practice of any alcohol and drug counseling consistent with
15 the scope of practice of their respective professions;

16 (2) Teaching or the conduct of research related to
17 alcohol and drug counseling with organizations or institutions
18 if such teaching, research, or consultation does not involve
19 the delivery or supervision of alcohol and drug counseling to
20 individuals or groups of individuals who are themselves, rather
21 than a third party, the intended beneficiaries of such services;

22 (3) The delivery of alcohol and drug counseling by:

23 (a) Students, interns, or residents whose activities
24 constitute a part of the course of study for medicine, psychology,
25 nursing, school psychology, social work, clinical social work,

1 counseling, marriage and family therapy, alcohol and drug
2 counseling, compulsive gambling counseling, or other health care or
3 mental health service professions; or

4 (b) Individuals seeking to fulfill postgraduate
5 requirements for licensure when those individuals are supervised by
6 a licensed professional consistent with the applicable regulations
7 of the appropriate professional board;

8 (4) Duly recognized members of the clergy from providing
9 alcohol and drug counseling in the course of their ministerial
10 duties and consistent with the codes of ethics of their profession
11 if they do not represent themselves to be alcohol and drug
12 counselors;

13 (5) The incidental exchange of advice or support by
14 persons who do not represent themselves as engaging in alcohol
15 and drug counseling, including participation in self-help groups
16 when the leaders of such groups receive no compensation for their
17 participation and do not represent themselves as alcohol and drug
18 counselors or their services as alcohol and drug counseling;

19 (6) Any person providing emergency crisis intervention or
20 referral services; or

21 (7) Staff employed in a program designated by an
22 agency of state government to provide rehabilitation and support
23 services to individuals with alcohol or drug disorders from
24 completing a rehabilitation assessment or preparing, implementing,
25 and evaluating an individual rehabilitation plan.

1 Sec. 164. Section 71-1,354, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-1,354~~ (1) A person may apply for a license as an
4 alcohol and drug counselor if he or she meets the requirements
5 provided in section ~~71-1,357~~. 167 of this act.

6 (2) A person may apply for a license as a provisional
7 alcohol and drug counselor which permits such person to practice
8 and acquire the supervised clinical work experience required
9 for licensure as an alcohol and drug counselor. A ~~license~~
10 ~~for provisional status shall be eligible for renewal every two~~
11 ~~calendar years for a maximum of two renewals upon meeting the~~
12 ~~renewal requirements in section 71-1,360~~. Provisional status may
13 be granted once and held for a time period not to exceed
14 six years, except that if an individual does not complete the
15 supervised clinical work experience required for licensure within
16 the specified six-year period due to unforeseen circumstances
17 as determined by the department, with the recommendation of the
18 board, the individual may apply for one additional provisional
19 license. An individual who is so licensed shall not render
20 services without clinical supervision. An individual who holds
21 provisional licensure shall inform all clients that he or she holds
22 a provisional certification and is practicing under supervision
23 and shall identify the supervisor. An applicant shall meet the
24 requirements provided in section ~~71-1,355~~. 165 of this act.

25 ~~(3) Any person certified as an alcohol and drug abuse~~

1 ~~counselor on July 1, 2004, shall be deemed to be licensed as an~~
2 ~~alcohol and drug counselor under the Uniform Licensing Law on such~~
3 ~~date. Any person certified as a provisional alcohol and drug abuse~~
4 ~~counselor on July 1, 2004, shall be deemed to be licensed as a~~
5 ~~provisional alcohol and drug counselor under the Uniform Licensing~~
6 ~~Law on such date. The certificate holder may continue to practice~~
7 ~~under such certificate as a license until September 1 after the~~
8 ~~next renewal date for his or her certificate under the rules and~~
9 ~~regulations governing counselors as provided in section 71-1,361.~~
10 ~~Renewals issued for such certificates extended to September 1,~~
11 ~~2004, or September 1, 2005, shall be valid until September 1,~~
12 ~~2006, and shall be issued with fees and continuing competency~~
13 ~~requirements prorated accordingly. Subsequent renewals shall be for~~
14 ~~two-year periods expiring September 1 of even-numbered years as~~
15 ~~provided in section 71-110.~~

16 Sec. 165. Section 71-1,355, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-1,355~~ To be licensed to practice as a provisional
19 alcohol and drug counselor, an applicant shall:

20 (1) Have a high school diploma or its equivalent;

21 (2) Have two hundred seventy hours of education related
22 to the knowledge and skills of alcohol and drug counseling which
23 shall include:

24 (a) A minimum of forty-five hours in counseling theories
25 and techniques coursework;

1 (b) A minimum of forty-five hours in group counseling
2 coursework;

3 (c) A minimum of thirty hours in human growth and
4 development coursework;

5 (d) A minimum of fifteen hours in professional ethics and
6 issues coursework;

7 (e) A minimum of thirty hours in alcohol and drug
8 assessment, case planning, and management coursework;

9 (f) A minimum of thirty hours in multicultural counseling
10 coursework;

11 (g) A minimum of forty-five hours in medical and
12 psychosocial aspects of alcohol and drug use, abuse, and addiction
13 coursework; and

14 (h) A minimum of thirty hours in clinical treatment
15 issues in chemical dependency coursework; and

16 (3) Have supervised practical training which shall:

17 (a) Include performing a minimum of three hundred hours
18 in the counselor core functions in a work setting where alcohol and
19 drug counseling is provided;

20 (b) Be a formal, systematic process that focuses on skill
21 development and integration of knowledge;

22 (c) Include training hours documented by performance date
23 and core function performance areas; and

24 (d) Include the performance of all counselor core
25 functions with no single function performed less than ten hours. +

1 and

2 ~~(4) Have read and agreed to be bound by the standards of~~
3 ~~professional conduct and code of ethics established in the rules~~
4 ~~and regulations under section 71-1,361.~~

5 Sec. 166. Section 71-1,356, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-1,356~~ (1) (a) The practical training supervisor for
8 supervised practical training required under section ~~71-1,355~~ 165
9 of this act shall hold one of the following credentials:

10 (i) Licensure as an alcohol and drug counselor;

11 (ii) ~~A~~ If the practical training is acquired outside of
12 Nebraska, a reciprocity level alcohol and drug counselor credential
13 issued by a member jurisdiction of the International Certification
14 and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or
15 its successor; or

16 (iii) Licensure as a physician or psychologist under
17 the Uniform Licensing Law, Credentialing Act, or an equivalent
18 credential from another jurisdiction, and sufficient training as
19 determined by the Board of Medicine and Surgery for physicians
20 or the Board of Psychologists for psychologists, in consultation
21 with the Board of Alcohol and Drug Counseling, and adopted and
22 promulgated by the department in rules and regulations.

23 (b) The practical training supervisor shall not be a
24 family member.

25 (c) The credential requirement of this subsection applies

1 to the work setting supervisor and not to a practicum coordinator
2 or instructor of a postsecondary educational institution.

3 (2) The practical training supervisor shall assume
4 responsibility for the performance of the individual in training
5 and shall be onsite at the work setting when core function
6 activities are performed by the individual in training. A minimum
7 of one hour of evaluative face-to-face supervision for each ten
8 hours of core function performance shall be documented. Supervisory
9 methods shall include, as a minimum, individual supervisory
10 sessions, formal case staffings, and conjoint, cotherapy sessions.
11 Supervision shall be directed towards teaching the knowledge and
12 skills of professional alcohol and drug counseling.

13 Sec. 167. Section 71-1,357, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~71-1,357~~ (1) To be licensed to practice as an alcohol
16 and drug counselor, an applicant shall meet the requirements for
17 licensure as a provisional alcohol and drug counselor under section
18 ~~71-1,355, 165 of this act,~~ shall receive a passing score on an
19 examination approved by the board, and shall have six thousand
20 hours of supervised clinical work experience providing alcohol
21 and drug counseling services to alcohol and other drug clients
22 for remuneration. The experience shall be polydrug counseling
23 experience.

24 (2) The experience shall include carrying a client
25 caseload as the primary alcohol and drug counselor performing the

1 core functions of assessment, treatment planning, counseling, case
2 management, referral, reports and record keeping, and consultation
3 with other professionals for those clients. The experience shall
4 also include responsibility for performance of the five remaining
5 core functions although these core functions need not be performed
6 by the applicant with each client in their caseload.

7 (3) Experience that shall not count towards licensure
8 shall include, but not be limited to:

9 (a) Providing services to individuals who do not have
10 a diagnosis of alcohol and drug abuse or dependence such as
11 prevention, intervention, and codependency services or other mental
12 health disorder counseling services, except that this shall not
13 exclude counseling services provided to a client's significant
14 others when provided in the context of treatment for the diagnosed
15 alcohol or drug client; and

16 (b) Providing services when the experience does not
17 include primary case responsibility for alcohol or drug treatment
18 or does not include responsibility for the performance of all of
19 the core functions.

20 (4) The maximum number of hours of experience that may be
21 accrued are forty hours per week or two thousand hours per year.

22 (5) (a) A postsecondary educational degree may be
23 substituted for part of the supervised clinical work experience.
24 The degree shall be from a regionally accredited postsecondary
25 educational institution or the educational program shall be

1 accredited by a nationally recognized accreditation agency.

2 (b) An associate's degree in addictions or chemical
3 dependency may be substituted for one thousand hours of supervised
4 clinical work experience.

5 (c) A bachelor's degree with a major in counseling,
6 addictions, social work, sociology, or psychology may be
7 substituted for two thousand hours of supervised clinical work
8 experience.

9 (d) A master's degree or higher in counseling,
10 addictions, social work, sociology, or psychology may be
11 substituted for four thousand hours of supervised clinical work
12 experience.

13 (e) A substitution shall not be made for more than one
14 degree.

15 Sec. 168. Section 71-1,358, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 ~~71-1,358~~ (1)(a) The clinical supervisor for supervised
18 clinical work experience under section ~~71-1,357~~ 167 of this act
19 shall hold one of the following credentials:

20 (i) Licensure as an alcohol and drug counselor;

21 (ii) A If the clinical work is acquired outside of
22 Nebraska, a reciprocity level alcohol and drug counselor credential
23 issued by a member jurisdiction of the International Certification
24 and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or
25 its successor;

1 (iii) The highest level alcohol and drug counselor
2 credential issued by a jurisdiction that is not a member of the
3 International Certification and Reciprocity Consortium, Alcohol and
4 Other Drug Abuse, Inc., or its successor if the credential is based
5 on education, experience, and examination that is substantially
6 similar to the license issued in this state as determined by the
7 board; or

8 (iv) Licensure as a physician or psychologist under
9 the Uniform ~~Licensing Law~~, Credentialing Act, or an equivalent
10 credential from another jurisdiction, and sufficient training as
11 determined by the Board of Medicine and Surgery for physicians
12 or the Board of Psychologists for psychologists, in consultation
13 with the Board of Alcohol and Drug Counseling, and adopted and
14 promulgated by the department in rules and regulations.

15 (b) The clinical supervisor shall be formally affiliated
16 with the program or agency in which the work experience is gained.

17 (c) The clinical supervisor shall not be a family member.

18 (2) There shall be one hour of evaluative face-to-face
19 clinical supervision for each forty hours of paid alcohol and
20 drug counseling work experience. The format for supervision shall
21 be either one-on-one or small group. Methods of supervision may
22 include case review and discussion or direct observation of a
23 counselor's clinical work.

24 Sec. 169. Section 71-1,359, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 ~~71-1,359~~ (1) An individual who is licensed as a
2 provisional alcohol and drug counselor at the time of application
3 for licensure as an alcohol and drug counselor is deemed to have
4 met the requirements of a high school diploma or its equivalent,
5 the two hundred seventy hours of education related to alcohol and
6 drug counseling, and the supervised practical training requirement.

7 (2) An applicant who is licensed as a provisional mental
8 health practitioner or a mental health practitioner at the time of
9 application for licensure is deemed to have met the requirements of
10 subdivisions (2)(a), (b), (c), (d), and (f) of section ~~71-1,355-~~
11 165 of this act.

12 Sec. 170. The department, with the recommendation of
13 the board, may issue a license based on licensure in another
14 jurisdiction to an individual who meets the requirements of
15 the Alcohol and Drug Counseling Practice Act or substantially
16 equivalent requirements as determined by the department, with the
17 recommendation of the board.

18 Sec. 171. The department shall establish and collect
19 fees for initial licensure and renewal under the Alcohol and Drug
20 Counseling Practice Act as provided in sections 51 to 57 of this
21 act.

22 Sec. 172. Section 71-1,361, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 ~~71-1,361~~ (1) The department, ~~upon~~ with the advice
25 recommendation of the board, shall adopt and promulgate rules

1 and regulations to administer ~~sections 71-1,351 to 71-1,361,~~ the
2 Alcohol and Drug Counseling Practice Act, including rules and
3 regulations governing:

4 (a) Ways of clearly identifying students, interns,
5 and other persons providing alcohol and drug counseling under
6 supervision;

7 (b) The rights of persons receiving alcohol and drug
8 counseling;

9 (c) The rights of clients to gain access to their
10 records, except that records relating to substance abuse may be
11 withheld from a client if an alcohol and drug counselor determines,
12 in his or her professional opinion, that release of the records to
13 the client would not be in the best interest of the client or would
14 pose a threat to another person, unless the release of the records
15 is required by court order;

16 (d) The contents and methods of distribution of
17 disclosure statements to clients of alcohol and drug counselors;
18 and

19 (e) Standards of professional conduct and a code of
20 ethics.

21 (2) The rules and regulations governing certified alcohol
22 and drug counselors shall remain in effect to govern licensure
23 until modified under this section, except that if there is any
24 conflict with ~~sections 71-1,351 to 71-1,361,~~ the Alcohol and Drug
25 Counseling Practice Act, the provisions of ~~such sections~~ the act

1 shall prevail.

2 Sec. 173. Sections 173 to 186 of this act shall be known
3 and may be cited as the Athletic Training Practice Act.

4 Sec. 174. Section 71-1,238, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-1,238~~ For purposes of sections ~~71-1,238 to 71-1,242,~~
7 the Athletic Training Practice Act and elsewhere in the Uniform
8 Credentialing Act, unless the context otherwise requires, the
9 definitions found in sections 175 to 179 of this act apply. +

10 ~~(1) Athletic trainer means a person who is responsible~~
11 ~~for the prevention, emergency care, first aid, treatment, and~~
12 ~~rehabilitation of athletic injuries under guidelines established~~
13 ~~with a licensed physician and who is licensed to perform the~~
14 ~~functions set out in section 71-1,240. When athletic training~~
15 ~~is provided in a hospital outpatient department or clinic or~~
16 ~~an outpatient-based medical facility, the athletic trainer will~~
17 ~~perform the functions described in section 71-1,240 with a referral~~
18 ~~from a licensed physician for athletic training;~~

19 ~~(2) Athletic training means the prevention, evaluation,~~
20 ~~emergency care, first aid, treatment, and rehabilitation of~~
21 ~~athletic injuries utilizing the treatments set out in section~~
22 ~~71-1,240;~~

23 ~~(3) Athletic injuries means the types of musculoskeletal~~
24 ~~injury or common illness and conditions which athletic trainers are~~
25 ~~educated to treat or refer, incurred by athletes, which prevent or~~

1 ~~limit participation in sports or recreation.~~

2 ~~(4) Board means the Board of Athletic Training.~~

3 ~~(5) Department means the Department of Health and Human~~
4 ~~Services Regulation and Licensure, and~~

5 ~~(6) Practice site means the location where the athletic~~
6 ~~trainer practices athletic training.~~

7 Sec. 175. Athletic injuries means the types of
8 musculoskeletal injury or common illness and conditions which
9 athletic trainers are educated to treat or refer, incurred by
10 athletes, which prevent or limit participation in sports or
11 recreation.

12 Sec. 176. Athletic trainer means a person who is
13 responsible for the prevention, emergency care, first aid,
14 treatment, and rehabilitation of athletic injuries under guidelines
15 established with a licensed physician and who is licensed to
16 perform the functions set out in section 180 of this act. When
17 athletic training is provided in a hospital outpatient department
18 or clinic or an outpatient-based medical facility, the athletic
19 trainer will perform the functions described in section 180 of
20 this act with a referral from a licensed physician for athletic
21 training.

22 Sec. 177. Athletic training means the prevention,
23 evaluation, emergency care, first aid, treatment, and
24 rehabilitation of athletic injuries utilizing the treatments
25 set out in section 180 of this act.

1 Sec. 178. Board means the Board of Athletic Training.

2 Sec. 179. Practice site means the location where the
3 athletic trainer practices athletic training.

4 Sec. 180. (1) Athletic trainers shall be authorized to
5 use the following physical modalities in the treatment of athletic
6 injuries under guidelines established with a licensed physician:

7 (a) Application of electrotherapy;

8 (b) Application of ultrasound;

9 (c) Use of medical diathermies;

10 (d) Application of infrared light; and

11 (e) Application of ultraviolet light.

12 (2) The application of heat, cold, air, water, or
13 exercise shall not be restricted by the Athletic Training Practice
14 Act.

15 Sec. 181. Section 71-1,240, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-1,240~~ ~~(1)~~ No person shall be authorized to perform
18 the physical modalities set out in ~~subsection (2)~~ of this section
19 180 of this act on any person unless he or she first obtains a
20 license as an athletic trainer or unless such person is licensed as
21 a physician, osteopathic physician, chiropractor, nurse, physical
22 therapist, or podiatrist. No person shall hold himself or herself
23 out to be an athletic trainer unless licensed under ~~sections~~
24 ~~71-1,238 to 71-1,242.~~ the Athletic Training Practice Act.

25 ~~(2) Athletic trainers shall be authorized to use the~~

1 following physical modalities in the treatment of athletic injuries
2 under guidelines established with a licensed physician:

3 ~~(a) Application of electrotherapy;~~

4 ~~(b) Application of ultrasound;~~

5 ~~(c) Use of medical diathermies;~~

6 ~~(d) Application of infrared light; and~~

7 ~~(e) Application of ultraviolet light.~~

8 ~~(3) The application of heat, cold, air, water, or~~
9 ~~exercise shall not be restricted by sections 71-1,238 to 71-1,242.~~

10 Sec. 182. Section 71-1,239.01, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 ~~71-1,239.01~~ (1) An individual who accompanies an athletic
13 team or organization from another state or jurisdiction as the
14 athletic trainer is exempt from the licensure requirements of
15 sections 71-1,238 to 71-1,242. the Athletic Training Practice Act.

16 (2) An individual who is a graduate student in athletic
17 training and who is practicing under the supervision of a licensed
18 athletic trainer is exempt from the licensure requirements of the
19 Athletic Training Practice Act.

20 Sec. 183. Section 71-1,241, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-1,241~~ (1) ~~Except as provided in section 71-1,242, an~~
23 An applicant for licensure as an athletic trainer shall at the time
24 of application provide proof to the department that he or she meets
25 one or more of the following qualifications:

1 (a) Graduation after successful completion of the
2 athletic training curriculum requirements of an accredited college
3 or university approved by the ~~department,~~ board; or

4 (b) Graduation with a four-year degree from an accredited
5 college or university and completion of at least two consecutive
6 years, military duty excepted, as a student athletic trainer under
7 the supervision of an athletic trainer approved by the board.

8 (2) In order to be licensed as an athletic trainer, an
9 applicant shall, in addition to the requirements of subsection (1)
10 of this section, successfully complete an examination approved by
11 ~~the department on the recommendation of~~ the board.

12 Sec. 184. An applicant for licensure as an athletic
13 trainer who has met the education and examination requirements in
14 section 183 of this act, who passed the examination more than
15 three years prior to the time of application for licensure, and who
16 is not practicing at the time of application for licensure shall
17 present proof satisfactory to the department that he or she has
18 within the three years immediately preceding the application for
19 licensure completed continuing competency requirements approved by
20 the board pursuant to section 45 of this act.

21 Sec. 185. An applicant for licensure as an athletic
22 trainer who has met the standards set by the board pursuant to
23 section 26 of this act for a license based on licensure in another
24 jurisdiction but is not practicing at the time of application
25 for licensure shall present proof satisfactory to the department

1 that he or she has within the three years immediately preceding
 2 the application for licensure completed continuing competency
 3 requirements approved by the board pursuant to section 45 of
 4 this act.

5 Sec. 186. The department shall establish and collect
 6 fees for initial licensure and renewal under the Athletic Training
 7 Practice Act as provided in sections 51 to 57 of this act.

8 Sec. 187. Sections 187 to 212 of this act shall be known
 9 and may be cited as the Audiology and Speech-Language Pathology
 10 Practice Act.

11 Sec. 188. Section 71-1,186, Reissue Revised Statutes of
 12 Nebraska, is amended to read:

13 71-1,186 As used in sections 71-1,186 to 71-1,196 For
 14 purposes of the Audiology and Speech-Language Pathology Practice
 15 Act and elsewhere in the Uniform Licensing Law, Credentialing Act,
 16 unless the context otherwise requires, the definitions found in
 17 sections 189 to 194 of this act apply. †

18 ~~(1) Board shall mean the Board of Audiology and~~
 19 ~~Speech-Language Pathology;~~

20 ~~(2) Practice of audiology shall mean the application of~~
 21 ~~principles, methods, and procedures for testing, measuring, and~~
 22 ~~monitoring hearing, preparation of ear impressions and selection~~
 23 ~~of hearing aids, aural rehabilitation, hearing conservation,~~
 24 ~~vestibular testing of patients when vestibular testing is done as~~
 25 ~~a result of a referral by a physician, and instruction related to~~

1 hearing and disorders of hearing for the purpose of preventing,
2 identifying, evaluating, and minimizing the effects of such
3 disorders and conditions but shall not include the practice of
4 medical diagnosis, medical treatment, or surgery;

5 (3) Audiologist shall mean an individual who practices
6 audiology and who presents himself or herself to the public by
7 any title or description of services incorporating the words
8 audiologist, hearing clinician, hearing therapist, or any similar
9 title or description of services;

10 (4) Practice of speech-language pathology shall
11 mean the application of principles, methods, and procedures
12 for the evaluation, monitoring, instruction, habilitation, or
13 rehabilitation related to the development and disorders of speech,
14 voice, or language for the purpose of preventing, identifying,
15 evaluating, and minimizing the effects of such disorders and
16 conditions but shall not include the practice of medical diagnosis,
17 medical treatment, or surgery;

18 (5) Speech-language pathologist shall mean an individual
19 who presents himself or herself to the public by any title or
20 description of services incorporating the words speech-language
21 pathologist, speech therapist, speech correctionist, speech
22 clinician, language pathologist, language therapist, language
23 clinician, logopedist, communicologist, aphasiologist, aphasia
24 therapist, voice pathologist, voice therapist, voice clinician,
25 phoniatrist, or any similar title, term, or description of

1 ~~services, and~~

2 ~~(6) Communication assistant shall mean any person who,~~
3 ~~following specified training and receiving specified supervision,~~
4 ~~provides specified limited structured communication services,~~
5 ~~which are developed and supervised by a licensed audiologist or~~
6 ~~speech-language pathologist, in the areas in which the supervisor~~
7 ~~holds licenses.~~

8 Sec. 189. Audiologist means an individual who practices
9 audiology and who presents himself or herself to the public by
10 any title or description of services incorporating the words
11 audiologist, hearing clinician, or hearing therapist or any similar
12 title or description of services.

13 Sec. 190. Board means the Board of Audiology and
14 Speech-Language Pathology.

15 Sec. 191. Communication assistant means any person who,
16 following specified training and receiving specified supervision,
17 provides specified limited structured communication services,
18 which are developed and supervised by a licensed audiologist or
19 speech-language pathologist, in the areas in which the supervisor
20 holds licenses.

21 Sec. 192. Practice of audiology means the application of
22 principles, methods, and procedures for testing, measuring, and
23 monitoring hearing, preparation of ear impressions and selection
24 of hearing aids, aural rehabilitation, hearing conservation,
25 vestibular testing of patients when vestibular testing is done as

1 a result of a referral by a physician, and instruction related to
2 hearing and disorders of hearing for the purpose of preventing,
3 identifying, evaluating, and minimizing the effects of such
4 disorders and conditions but shall not include the practice of
5 medical diagnosis, medical treatment, or surgery.

6 Sec. 193. Practice of speech-language pathology
7 means the application of principles, methods, and procedures
8 for the evaluation, monitoring, instruction, habilitation, or
9 rehabilitation related to the development and disorders of speech,
10 voice, or language for the purpose of preventing, identifying,
11 evaluating, and minimizing the effects of such disorders and
12 conditions but does not include the practice of medical diagnosis,
13 medical treatment, or surgery.

14 Sec. 194. Speech-language pathologist means an individual
15 who presents himself or herself to the public by any title or
16 description of services incorporating the words speech-language
17 pathologist, speech therapist, speech correctionist, speech
18 clinician, language pathologist, language therapist, language
19 clinician, logopedist, communicologist, aphasiologist, aphasia
20 therapist, voice pathologist, voice therapist, voice clinician,
21 phoniatriest, or any similar title, term, or description of
22 services.

23 Sec. 195. Membership on the board shall consist of four
24 professional members and one public member appointed pursuant to
25 section 58 of this act. The members shall meet the requirements of

1 sections 64 and 65 of this act. Two of the professional members
2 shall be audiologists, and two of the professional members shall be
3 speech-language pathologists.

4 Sec. 196. Section 71-1,187, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-1,187~~ Nothing in the ~~Uniform Licensing Law~~ Audiology
7 and Speech-Language Pathology Practice Act shall be construed to
8 prevent or restrict:

9 (1) The practice of audiology or speech-language
10 pathology or the use of the official title of such practice by a
11 person employed as a speech-language pathologist or audiologist by
12 the federal government;

13 (2) A physician from engaging in the practice of medicine
14 and surgery or any individual from carrying out any properly
15 delegated responsibilities within the normal practice of medicine
16 and surgery under the supervision of a physician;

17 (3) A person licensed as a hearing aid fitter and dealer
18 in this state from engaging in the fitting, selling, and servicing
19 of hearing aids or performing such other duties as defined in
20 ~~sections 71-4701 to 71-4719;~~ the Hearing Aid Instrument Dispensers
21 and Fitters Practice Act;

22 (4) The practice of audiology or speech-language
23 pathology or the use of the official title of such practice by a
24 person who holds a valid and current credential as a speech or
25 hearing specialist issued by the State Department of Education,

1 if such person performs speech-language pathology or audiology
2 services solely as a part of his or her duties within an agency,
3 institution, or organization for which no fee is paid directly
4 or indirectly by the recipient of such service and under the
5 jurisdiction of the State Department of Education, but such person
6 may elect to be within the jurisdiction of ~~sections 71-1,186 to~~
7 ~~71-1,196~~ the Audiology and Speech-Language Pathology Practice Act;
8 or

9 (5) The clinical practice in audiology or speech-language
10 pathology required for students enrolled in an accredited college
11 or university pursuing a major in audiology or speech-language
12 pathology, if such clinical practices are supervised by a person
13 licensed to practice audiology or speech-language pathology and if
14 the student is designated by a title such as trainee or other title
15 clearly indicating the training status.

16 Sec. 197. Section 71-1,196, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-1,196~~ Any audiologist who engages in the sale of
19 hearing aids shall not be exempt from ~~sections 71-4706 to 71-4711.~~
20 the Hearing Aid Instrument Dispensers and Fitters Practice Act.

21 Sec. 198. Section 71-1,188, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-1,188~~ Nothing in ~~sections 71-1,186 to 71-1,196~~ the
24 Audiology and Speech-Language Pathology Practice Act shall be
25 construed to prevent or restrict (1) a qualified person licensed in

1 this state from engaging in the profession for which he or she is
2 licensed if he or she does not present himself or herself to be an
3 audiologist or speech-language pathologist or (2) the performance
4 of audiology or speech-language pathology services in this state by
5 any person not a resident of this state who is not licensed under
6 ~~such sections,~~ the act, if such services are performed for not
7 more than thirty days in any calendar year, if such person meets
8 the qualifications and requirements for application for licensure
9 under ~~such sections,~~ the act, if such person is working under
10 the supervision of a person licensed to practice speech-language
11 pathology or audiology, and if such person registers with the board
12 prior to initiation of professional services.

13 Sec. 199. Section 71-1,189, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-1,189~~ Before any audiologist initiates any aural
16 rehabilitation for an individual, the audiologist shall have in
17 his or her possession evidence of a current otologic examination
18 performed by a physician or the audiologist shall issue a written
19 statement that the individual has been informed that he or she
20 may have a medically or surgically remediable hearing loss and
21 should seek the advice of a physician. The audiologist and the
22 individual receiving aural rehabilitation shall sign the statement
23 and a copy of the statement shall be provided to the individual.
24 All vestibular testing performed by an audiologist shall be done at
25 the referral of a physician and, whenever possible, at the referral

1 of an otolaryngologist or neurologist.

2 Sec. 200. Section 71-1,190, Reissue Revised Statutes of
3 Nebraska, as amended by section 1178 of this legislative bill, is
4 amended to read:

5 ~~71-1,190~~ (1) Every applicant for a license to practice
6 audiology shall (a)(i) for applicants graduating prior to the
7 operative date of this section, present proof of a master's degree,
8 a doctoral degree, or the equivalent of a master's degree or
9 doctoral degree in audiology from an academic program approved by
10 the board, and (ii) for applicants graduating on or after the
11 operative date of this section, present proof of a doctoral degree
12 or its equivalent in audiology, (b) present proof of no less than
13 thirty-six weeks of full-time professional experience or equivalent
14 half-time professional experience in audiology, supervised in the
15 area in which licensure is sought, and (c) successfully complete an
16 examination approved by the board.

17 (2) Every applicant for a license to practice
18 speech-language pathology shall (a) present proof of a master's
19 degree, a doctoral degree, or the equivalent of a master's degree
20 or doctoral degree in speech-language pathology from an academic
21 program approved by the board, (b) present proof of no less than
22 thirty-six weeks of full-time professional experience or equivalent
23 half-time professional experience in speech-language pathology,
24 supervised in the area in which licensure is sought, and (c)
25 successfully complete an examination approved by the board.

1 (3) Presentation of official documentation of
2 certification by a nationwide professional accrediting organization
3 approved by the board shall be deemed equivalent to the
4 requirements of this section.

5 Sec. 201. An applicant for licensure to practice
6 audiology or speech-language pathology who has met the education,
7 professional experience, and examination requirements in section
8 200 of this act, who passed the examination more than three years
9 prior to the time of application for licensure, and who is not
10 practicing at the time of application for licensure shall present
11 proof satisfactory to the department that he or she has within the
12 three years immediately preceding the application for licensure
13 completed continuing competency requirements approved by the board
14 pursuant to section 45 of this act.

15 Sec. 202. An applicant for licensure to practice
16 audiology or speech-language pathology who has met the standards
17 set by the board pursuant to section 26 of this act for a license
18 based on licensure in another jurisdiction but is not practicing
19 at the time of application for licensure shall present proof
20 satisfactory to the department that he or she has within the three
21 years immediately preceding the application for licensure completed
22 continuing competency requirements approved by the board pursuant
23 to section 45 of this act.

24 Sec. 203. Section 71-1,194, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-1,194~~ ~~(1)~~ A temporary license to practice audiology or
2 speech-language pathology may be granted to persons who establish
3 residence in Nebraska and ~~(a)~~ (1) who meet all the requirements
4 for a license except passage of the examination required by
5 section ~~71-1,190,~~ 200 of this act, which temporary license shall
6 be valid only until the date on which the results of the next
7 licensure examination are available to the department and shall
8 not be renewed, or ~~(b)~~ (2) who meet all the requirements for a
9 license except completion of the professional experience required
10 by section ~~71-1,190,~~ 200 of this act, which temporary license shall
11 be valid only until the sooner of completion of such professional
12 experience or eighteen months and shall not be renewed.

13 ~~(2) The department shall have the power to deny, revoke,~~
14 ~~limit, suspend, or otherwise discipline a temporary license to~~
15 ~~practice audiology or speech-language pathology upon the grounds~~
16 ~~and in accordance with the Uniform Licensing Law.~~

17 Sec. 204. Section 71-1,195.01, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 ~~71-1,195.01~~ (1) Upon application and payment of the
20 registration fee, the department shall register to practice as a
21 communication assistant any person who:

22 (a) Is a graduate of an accredited high school or its
23 equivalent;

24 (b) Has successfully completed all required training
25 pursuant to sections ~~71-1,195.04 and 71-1,195.05~~ 206 and 207 of

1 this act and any inservice training required pursuant to section
2 ~~71-1,195.09~~ 211 of this act; and

3 (c) Has demonstrated ability to reliably maintain
4 records and provide treatment under the supervision of a licensed
5 audiologist or speech-language pathologist.

6 (2) Such registration shall be valid for one year from
7 the date of issuance.

8 ~~(3) The board shall, with the approval of the department,~~
9 ~~adopt and promulgate rules and regulations necessary to administer~~
10 ~~sections 71-1,195.01 to 71-1,195.09.~~

11 Sec. 205. Section 71-1,195.02, Reissue Revised Statutes
12 of Nebraska, is amended to read:

13 ~~71-1,195.02~~ (1) The department, ~~upon~~ with the
14 recommendation of the board, shall approve an application submitted
15 by an audiologist or speech-language pathologist for supervision
16 for a communication assistant when:

17 (a) The communication assistant meets the requirements
18 for registration pursuant to section ~~71-1,195.01~~; 204 of this act;

19 (b) The audiologist or speech-language pathologist has a
20 valid Nebraska license; and

21 (c) The audiologist or speech-language pathologist
22 practices in Nebraska.

23 (2) Any audiologist or speech-language pathologist
24 seeking approval for supervision of a communication assistant
25 shall submit an application which is signed by the communication

1 assistant and the audiologist or speech-language pathologist with
2 whom he or she is associated. Such application shall (a) identify
3 the settings within which the communication assistant is authorized
4 to practice and (b) describe the agreed-upon functions that
5 the communication assistant may perform as provided in section
6 ~~71-1,195.06.~~ 208 of this act.

7 (3) If the supervision of a communication assistant
8 is terminated by the audiologist, speech-language pathologist,
9 or communication assistant, the audiologist or speech-language
10 pathologist shall notify the department of such termination. An
11 audiologist or speech-language pathologist who thereafter assumes
12 the responsibility for such supervision shall obtain a certificate
13 of approval to supervise a communication assistant from the
14 department prior to the use of the communication assistant in
15 the practice of audiology or speech-language pathology.

16 Sec. 206. Section 71-1,195.04, Reissue Revised Statutes
17 of Nebraska, is amended to read:

18 ~~71-1,195.04~~ Initial training for a communication
19 assistant shall consist of at least twelve hours and shall include:

20 (1) An overview of speech and language and the practice
21 of audiology and speech-language pathology;

22 (2) Ethical and legal responsibilities;

23 (3) Normal language, speech, and hearing functions;

24 (4) Observing and recording patient progress;

25 (5) Behavior management and modification; and

1 (6) Record keeping.

2 Sec. 207. Section 71-1,195.05, Reissue Revised Statutes
3 of Nebraska, is amended to read:

4 ~~71-1,195.05~~ In addition to the initial training required
5 by section ~~71-1,195.04~~, 206 of this act, any communication
6 assistant assigned to provide aural rehabilitation programs shall
7 have additional training which shall include, but not be limited
8 to:

9 (1) Information concerning the nature of hearing loss;

10 (2) Purposes and principles of auditory and visual
11 training;

12 (3) Maintenance and use of amplification devices; and

13 (4) Such other subjects as the department may deem
14 appropriate.

15 Sec. 208. Section 71-1,195.06, Reissue Revised Statutes
16 of Nebraska, is amended to read:

17 ~~71-1,195.06~~ A communication assistant may, under
18 the supervision of a licensed audiologist or speech-language
19 pathologist, perform the following duties and activities:

20 (1) Implement programs and procedures designed by
21 a licensed audiologist or speech-language pathologist which
22 develop or refine receptive and expressive verbal and nonverbal
23 communication skills;

24 (2) Maintain records of implemented procedures which
25 document a patient's responses to treatment;

1 (3) Provide input for interdisciplinary treatment
2 planning, inservice training, and other activities directed by a
3 licensed audiologist or speech-language pathologist;

4 (4) Prepare instructional material to facilitate
5 program implementation as directed by a licensed audiologist or
6 speech-language pathologist;

7 (5) Recommend speech, language, and hearing referrals
8 for evaluation by a licensed audiologist or speech-language
9 pathologist;

10 (6) Follow plans, developed by the licensed audiologist
11 or speech-language pathologist, that provide specific sequences of
12 treatment to individuals with communicative disorders; and

13 (7) Chart or log patient responses to the treatment plan.

14 Sec. 209. Section 71-1,195.07, Reissue Revised Statutes
15 of Nebraska, is amended to read:

16 ~~71-1,195.07~~ A communication assistant shall not:

17 (1) Evaluate or diagnose any type of communication
18 disorder;

19 (2) Interpret evaluation results or treatment progress;

20 (3) Consult or counsel, independent of the licensed
21 audiologist or speech-language pathologist, with a patient, a
22 patient's family, or staff regarding the nature or degree of
23 communication disorders;

24 (4) Plan patient treatment programs;

25 (5) Represent himself or herself as an audiologist or

1 speech-language pathologist or as a provider of speech, language,
2 or hearing treatment or assessment services; or

3 (6) Independently initiate, modify, or terminate any
4 treatment program.

5 Sec. 210. Section 71-1,195.08, Reissue Revised Statutes
6 of Nebraska, is amended to read:

7 ~~71-1,195.08~~ (1) When supervising the communication
8 assistant, the supervising audiologist or speech-language
9 pathologist shall:

10 (a) Provide direct onsite supervision for the first
11 treatment session;

12 (b) Provide direct onsite supervision of at least twenty
13 percent of all subsequent treatment sessions per quarter;

14 (c) Provide regular and frequent inservice training,
15 either formal or informal, which is directly related to the
16 particular services provided by the communication assistant; and

17 (d) Prepare semiannual performance evaluations of the
18 communication assistant.

19 (2) The supervising audiologist or speech-language
20 pathologist shall be responsible for all aspects of patient
21 treatment.

22 Sec. 211. Section 71-1,195.09, Reissue Revised Statutes
23 of Nebraska, is amended to read:

24 ~~71-1,195.09~~ The supervising audiologist or
25 speech-language pathologist shall provide the communication

1 assistant with an evaluation, supervision, and training, including
2 at least ten hours each year of inservice training in areas related
3 to the services provided by the communication assistant pursuant
4 to section ~~71-1,195-08~~ 210 of this act. Such training shall be
5 verified by annual reports to the department. The audiologist or
6 speech-language pathologist shall keep accurate records of such
7 evaluation, supervision, and training.

8 Sec. 212. The department shall establish and collect fees
9 for initial licensure and registration and renewal of licensure
10 and registration under the Audiology and Speech-Language Pathology
11 Practice Act as provided in sections 51 to 57 of this act.

12 Sec. 213. Section 71-1738, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~71-1738~~ Sections ~~71-1738~~ ~~to~~ ~~71-1765~~ 213 to 230 of this
15 act shall be known and may be cited as the Nebraska Certified Nurse
16 Midwifery Practice Act.

17 Sec. 214. Section 71-1739, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-1739~~ The Legislature hereby finds and declares that
20 the Nebraska Certified Nurse Midwifery Practice Act is necessary
21 to safeguard public life, health, safety, and welfare, to assure
22 the highest degree of professional conduct by practitioners of
23 certified nurse midwifery, and to insure the availability of high
24 quality midwifery services to persons desiring such services.

25 Sec. 215. Section 71-1740, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1740~~ For purposes of the ~~Nebraska~~ Certified Nurse
3 Midwifery Practice Act and elsewhere in the Uniform Credentialing
4 Act, unless the context otherwise requires, the definitions found
5 in sections ~~71-1743 to 71-1751~~ shall 216 to 222 of this act apply.

6 Sec. 216. Section 71-1749, Revised Statutes Cumulative
7 Supplement, 2006, as amended by section 21, Legislative Bill 185,
8 One Hundredth Legislature, First Session, 2007, is amended to read:

9 ~~71-1749~~ Approved certified nurse midwifery education
10 program ~~shall mean~~ means a certified nurse midwifery education
11 program approved by the board. The board may require such program
12 to be accredited by the American College of Nurse-Midwives.

13 Sec. 217. Section 71-1743, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~71-1743~~ Board ~~shall mean~~ means the Board of Advanced
16 Practice Registered Nurses.

17 Sec. 218. Section 71-1748, Reissue Revised Statutes of
18 Nebraska, as amended by section 20, Legislative Bill 185, One
19 Hundredth Legislature, First Session, 2007, is amended to read:

20 ~~71-1748~~ Certified nurse midwife ~~shall mean~~ means a person
21 certified by a board-approved certifying body and licensed under
22 the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act
23 to practice certified nurse midwifery in the State of Nebraska.
24 Nothing in the ~~Nebraska~~ Certified Nurse Midwifery Practice Act is
25 intended to restrict the practice of registered nurses.

1 Sec. 219. Section 71-1747, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-1747~~ Collaboration ~~shall mean~~ means a process and
4 relationship in which a certified nurse midwife works together
5 with other health professionals to deliver health care within the
6 scope of practice of certified nurse midwifery as provided in the
7 ~~Nebraska~~ Certified Nurse Midwifery Practice Act. The collaborative
8 relationship between the physician and the nurse midwife shall be
9 subject to the control and regulation of the board.

10 Sec. 220. Section 71-1746, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-1746~~ Licensed practitioner ~~shall mean~~ means any
13 physician licensed to practice pursuant to ~~section 71-1,104,~~
14 the Medicine and Surgery Practice Act, whose practice includes
15 obstetrics.

16 Sec. 221. Section 71-1750, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-1750~~ Practice agreement ~~shall mean~~ means the written
19 agreement authored and signed by the certified nurse midwife and
20 the licensed practitioner with whom he or she is associated which:

21 (1) Identifies the settings within which the certified
22 nurse midwife is authorized to practice;

23 (2) Names the collaborating licensed practitioner or, if
24 more than one licensed practitioner is a party to such practice
25 agreement, names all of the collaborating licensed practitioners;

1 (3) Defines or describes the medical functions to
2 be performed by the certified nurse midwife, which are not
3 inconsistent with the ~~Nebraska~~ Certified Nurse Midwifery Practice
4 Act, as agreed to by the nurse midwife and the collaborating
5 licensed practitioner; and

6 (4) Contains such other information as required by the
7 board.

8 Sec. 222. Section 71-1751, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-1751~~ Supervision ~~shall mean~~ means the ready
11 availability of a collaborating licensed practitioner for
12 consultation and direction of the activities of the certified nurse
13 midwife related to delegated medical functions as outlined in the
14 practice agreement.

15 Sec. 223. Section 71-1752, Reissue Revised Statutes of
16 Nebraska, as amended by section 22, Legislative Bill 185, One
17 Hundredth Legislature, First Session, 2007, is amended to read:

18 ~~71-1752~~ A certified nurse midwife may, under the
19 provisions of a practice agreement, (1) attend cases of normal
20 childbirth, (2) provide prenatal, intrapartum, and postpartum care,
21 (3) provide normal obstetrical and gynecological services for
22 women, and (4) provide care for the newborn immediately following
23 birth. The conditions under which a certified nurse midwife is
24 required to refer cases to a collaborating licensed practitioner
25 shall be specified in the practice agreement.

1 Sec. 224. Section 71-1765, Reissue Revised Statutes of
2 Nebraska, as amended by section 27, Legislative Bill 185, One
3 Hundredth Legislature, First Session, 2007, is amended to read:

4 ~~71-1765~~ The ~~Nebraska~~ Certified Nurse Midwifery Practice
5 Act shall not prohibit the performance of the functions of a
6 certified nurse midwife by an unlicensed person if performed:

7 (1) In an emergency situation;

8 (2) By a legally qualified person from another state
9 employed by the United States Government and performing official
10 duties in this state; or

11 (3) By a person enrolled in an approved program for the
12 preparation of certified nurse midwives as part of such approved
13 program.

14 Sec. 225. Section 71-1753, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 ~~71-1753~~ (1) The specific medical functions to be
17 performed by a certified nurse midwife within the scope of
18 permitted practice ~~defined by section 71-1752~~ prescribed by section
19 223 of this act shall be described in the practice agreement
20 which shall be reviewed and approved by the board. A copy of the
21 agreement shall be maintained on file with the board as a condition
22 of lawful practice under the ~~Nebraska~~ Certified Nurse Midwifery
23 Practice Act.

24 (2) A certified nurse midwife shall perform the functions
25 detailed in the practice agreement only under the supervision of

1 the licensed practitioner responsible for the medical care of the
2 patients described in the practice agreement. If the collaborating
3 licensed practitioner named in the practice agreement becomes
4 temporarily unavailable, the certified nurse midwife may perform
5 the authorized medical functions only under the supervision of
6 another licensed practitioner designated as a temporary substitute
7 for that purpose by the collaborating licensed practitioner.

8 (3) A certified nurse midwife may perform authorized
9 medical functions only in the following settings:

10 (a) In a licensed or certified health care facility as an
11 employee or as a person granted privileges by the facility;

12 (b) In the primary office of a licensed practitioner
13 or in any setting authorized by the collaborating licensed
14 practitioner, except that a certified nurse midwife shall not
15 attend a home delivery; or

16 (c) Within an organized public health agency.

17 (4) The department shall, after consultations with the
18 board, adopt and promulgate rules and regulations to carry out the
19 ~~Nebraska~~ Certified Nurse Midwifery Practice Act.

20 Sec. 226. Section 71-1754, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 ~~71-1754~~ If a certified nurse midwife intends to alter
23 his or her practice status by reason of a change in the setting,
24 supervision by a different licensed practitioner, modification of
25 the authorized medical functions, or for any other reason, he or

1 she shall submit a new or amended practice agreement to the board
2 for approval before any change may be permitted.

3 Sec. 227. Section 71-1755, Revised Statutes Cumulative
4 Supplement, 2006, as amended by section 23, Legislative Bill 185,
5 One Hundredth Legislature, First Session, 2007, is amended to read:

6 ~~71-1755~~ (1) An applicant for licensure under the Advanced
7 Practice Registered Nurse ~~Licensure~~ Practice Act to practice as a
8 certified nurse midwife shall submit ~~to the board~~ such evidence as
9 the board requires showing that the applicant is currently licensed
10 as a registered nurse by the state or has the authority based on
11 the Nurse Licensure Compact to practice as a registered nurse in
12 Nebraska, has successfully completed an approved certified nurse
13 midwifery education program, and is certified as a nurse midwife by
14 a board-approved certifying body.

15 (2) The department may, with the approval of the board,
16 grant temporary licensure as a certified nurse midwife for up
17 to one hundred twenty days upon application (a) to graduates
18 of an approved nurse midwifery program pending results of the
19 first certifying examination following graduation and (b) to nurse
20 midwives currently licensed in another state pending completion of
21 the application for a Nebraska license. A temporary license issued
22 pursuant to this section may be extended for up to one year with
23 the approval of the board.

24 (3) An individual holding a temporary certificate or
25 permit as a nurse midwife on ~~the operative date of this section~~

1 July 1, 2007, shall be deemed to be holding a temporary license
2 under this section on such date. The holder of such temporary
3 certificate or permit may continue to practice under such
4 certificate or permit as a temporary license until it would have
5 expired under its terms.

6 (4) If more than five years have elapsed since the
7 completion of the nurse midwifery program or since the applicant
8 has practiced as a nurse midwife, the applicant shall meet the
9 requirements in subsection (1) of this section and provide evidence
10 of continuing competency, as may be determined by the board, either
11 by means of a reentry program, references, supervised practice,
12 examination, or one or more of the continuing competency activities
13 listed in section ~~71-161.09-~~ 45 of this act.

14 Sec. 228. Section 71-1757, Revised Statutes Cumulative
15 Supplement, 2006, as amended by section 25, Legislative Bill 185,
16 One Hundredth Legislature, First Session, 2007, is amended to read:

17 ~~71-1757~~ To renew a license as a certified nurse
18 midwife, the applicant shall have a current certification by a
19 board-approved certifying body to practice nurse midwifery.

20 Sec. 229. Section 71-1756, Reissue Revised Statutes of
21 Nebraska, as amended by section 24, Legislative Bill 185, One
22 Hundredth Legislature, First Session, 2007, is amended to read:

23 ~~71-1756~~ Any person who holds a license to practice nurse
24 midwifery in this state shall have the right to use the title
25 certified nurse midwife and the abbreviation CNM. No other person

1 shall use such title or abbreviation to indicate that he or she
2 is licensed under the Advanced Practice Registered Nurse ~~Licensure~~
3 Practice Act to practice certified nurse midwifery.

4 Sec. 230. Section 71-1763, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-1763~~ Nothing in the ~~Nebraska~~ Certified Nurse Midwifery
7 Practice Act shall be interpreted to permit independent practice.

8 Sec. 231. Section 71-1728, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 ~~71-1728~~ This section and sections 71-1729 to 71-1737
11 Sections 231 to 241 of this act shall be known and may be cited as
12 the Certified Registered Nurse Anesthetist Practice Act.

13 Sec. 232. For purposes of the Certified Registered Nurse
14 Anesthetist Practice Act and elsewhere in the Uniform Credentialing
15 Act, unless the context otherwise requires, the definitions found
16 in sections 233 to 236 of this act apply.

17 Sec. 233. Board means the Board of Advanced Practice
18 Registered Nurses.

19 Sec. 234. Certified registered nurse anesthetist means
20 a licensed registered nurse certified by a board-approved
21 certifying body and licensed under the Advanced Practice Registered
22 Nurse Practice Act to practice as a certified registered nurse
23 anesthetist in the State of Nebraska.

24 Sec. 235. Licensed practitioner means any physician or
25 osteopathic physician licensed to prescribe, diagnose, and treat as

1 prescribed in the Medicine and Surgery Practice Act.

2 Sec. 236. Section 71-1729, Revised Statutes Cumulative
3 Supplement, 2006, as amended by section 14, Legislative Bill 185,
4 One Hundredth Legislature, First Session, 2007, is amended to read:

5 ~~71-1729 For purposes of the Certified Registered Nurse
6 Anesthetist Act, unless the context otherwise requires:~~

7 ~~(1) Board means the Board of Advanced Practice Registered
8 Nurses;~~

9 ~~(2) Certified registered nurse anesthetist means a
10 licensed registered nurse certified by a board-approved certifying
11 body and licensed under the Advanced Practice Registered Nurse
12 Licensure Act to practice as a certified registered nurse
13 anesthetist in the State of Nebraska;~~

14 ~~(3) Department means the Department of Health and Human
15 Services Regulation and Licensure;~~

16 ~~(4) Licensed practitioner means any physician or
17 osteopathic physician licensed to prescribe, diagnose, and treat as
18 prescribed in sections 71-1,102 and 71-1,137; and~~

19 ~~(5) (1) Practice of anesthesia means (a) the performance
20 of or the assistance in any act involving the determination,
21 preparation, administration, or monitoring of any drug used to
22 render an individual insensible to pain for procedures requiring
23 the presence of persons educated in the administration of
24 anesthetics or (b) the performance of any act commonly the
25 responsibility of educated anesthesia personnel. Practice of~~

1 anesthesia includes the use of those techniques which are deemed
2 necessary for adequacy in performance of anesthesia administration.

3 (2) Nothing in the Certified Registered Nurse Anesthetist
4 Practice Act prohibits (a) routine administration of a drug by a
5 duly licensed registered nurse, licensed practical nurse, or other
6 duly authorized person for the alleviation of pain or ~~prohibits~~ (b)
7 the practice of anesthesia by students enrolled in an accredited
8 school of nurse anesthesia when the services performed are a part
9 of the course of study and are under the supervision of a licensed
10 practitioner or certified registered nurse anesthetist.

11 Sec. 237. Section 71-1730, Revised Statutes Cumulative
12 Supplement, 2006, as amended by section 15, Legislative Bill 185,
13 One Hundredth Legislature, First Session, 2007, is amended to read:

14 ~~71-1730~~ (1) An applicant for a license under the Advanced
15 Practice Registered Nurse ~~Licensure~~ Practice Act to practice as a
16 certified registered nurse anesthetist shall:

17 (a) Hold a license as a registered nurse in the State of
18 Nebraska or have the authority based on the Nurse Licensure Compact
19 to practice as a registered nurse in Nebraska;

20 (b) Submit evidence of successful completion of a course
21 of study in anesthesia in a school of nurse anesthesia accredited
22 or approved by or under the auspices of the department or the
23 Council on Accreditation of Nurse Anesthesia and Educational
24 Programs; and

25 (c) Submit evidence of current certification by the

1 Council on Certification of Nurse Anesthetists.

2 (2) If more than five years have elapsed since the
3 applicant completed the nurse anesthetist program or since the
4 applicant has practiced as a nurse anesthetist, he or she shall
5 meet the requirements of subsection (1) of this section and shall
6 provide evidence of continuing competency as determined by the
7 board, including, but not limited to, a reentry program, supervised
8 practice, examination, or one or more of the continuing competency
9 activities listed in section ~~71-161.09~~, 45 of this act.

10 ~~(3) A person licensed as a certified registered nurse~~
11 ~~anesthetist has the right to use the title certified registered~~
12 ~~nurse anesthetist and the abbreviation C.R.N.A.~~

13 Sec. 238. Section 71-1731, Revised Statutes Cumulative
14 Supplement, 2006, as amended by section 16, Legislative Bill 185,
15 One Hundredth Legislature, First Session, 2007, is amended to read:

16 ~~71-1731~~ The department may, with the approval of the
17 board, grant a temporary license in the practice of anesthesia for
18 up to one hundred twenty days upon application (1) to graduates
19 of an accredited school of nurse anesthesia pending results of
20 the first certifying examination following graduation and (2) to
21 registered nurse anesthetists currently licensed in another state
22 pending completion of the application for a Nebraska license. A
23 temporary license issued pursuant to this section may be extended
24 at the discretion of the board with the approval of the department.
25 An individual holding a temporary permit as a registered nurse

1 anesthetist on ~~the operative date of this section~~ July 1, 2007,
2 shall be deemed to be holding a temporary license under this
3 section on such date. The permitholder may continue to practice
4 under such temporary permit as a temporary license until it would
5 have expired under its terms.

6 Sec. 239. Section 71-1735, Revised Statutes Cumulative
7 Supplement, 2006, as amended by section 18, Legislative Bill 185,
8 One Hundredth Legislature, First Session, 2007, is amended to read:

9 ~~71-1735~~ To renew a license to practice as a
10 certified registered nurse anesthetist, the applicant shall have
11 current certification by the Council on Certification of Nurse
12 Anesthetists.

13 Sec. 240. A person licensed as a certified registered
14 nurse anesthetist has the right to use the title certified
15 registered nurse anesthetist and the abbreviation C.R.N.A.

16 Sec. 241. Section 71-1734, Reissue Revised Statutes of
17 Nebraska, as amended by section 17, Legislative Bill 185, One
18 Hundredth Legislature, First Session, 2007, is amended to read:

19 ~~71-1734~~ (1) The determination and administration of total
20 anesthesia care shall be performed by the certified registered
21 nurse anesthetist or a nurse anesthetist temporarily licensed
22 pursuant to section ~~71-1731~~ 238 of this act in consultation
23 and collaboration with and with the consent of the licensed
24 practitioner.

25 (2) The following duties and functions shall be

1 considered as specific expanded role functions of the certified
2 registered nurse anesthetist:

3 (a) Preanesthesia evaluation including physiological
4 studies to determine proper anesthetic management and obtaining
5 informed consent;

6 (b) Selection and application of appropriate monitoring
7 devices;

8 (c) Selection and administration of anesthetic
9 techniques;

10 (d) Evaluation and direction of proper postanesthesia
11 management and dismissal from postanesthesia care; and

12 (e) Evaluation and recording of postanesthesia course of
13 patients.

14 (3) The determination of other duties that are normally
15 considered medically delegated duties to the certified registered
16 nurse anesthetist or to a nurse anesthetist temporarily licensed
17 pursuant to section ~~71-1731~~ 238 of this act shall be the joint
18 responsibility of the governing board of the hospital, medical
19 staff, and nurse anesthetist personnel of any duly licensed
20 hospital or, if in an office or clinic, the joint responsibility
21 of the duly licensed practitioner and nurse anesthetist. All such
22 duties, except in cases of emergency, shall be in writing in the
23 form prescribed by hospital or office policy.

24 Sec. 242. Sections 242 to 252 of this act shall be known
25 and may be cited as the Chiropractic Practice Act.

1 Sec. 243. For purposes of the Chiropractic Practice Act
2 and elsewhere in the Uniform Credentialing Act, unless the context
3 otherwise requires, the definitions found in sections 244 to 246 of
4 this act apply.

5 Sec. 244. Section 71-180, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-180~~ An accredited college of chiropractic ~~within the~~
8 ~~meaning of the Uniform Licensing Law shall be~~ means (1) one
9 which is ~~recognized by the department upon the recommendation~~
10 ~~of the Board of Chiropractic,~~ approved by the board, (2) a
11 legally chartered college of chiropractic requiring for admission
12 a diploma from an accredited high school or its equivalent and,
13 beginning with students entering a college of chiropractic on
14 or after January 1, 1974, at least two years credit from an
15 accredited college or university of this or some other state,
16 which requirement shall be regularly published in each prospectus
17 or catalog issued by such institution, (3) one which conducts a
18 clinic for patients in which its students are required to regularly
19 participate in the care and adjustment of patients, (4) one
20 giving instruction in anatomy, orthopedics, physiology, embryology,
21 chemistry, pathology, health ecology, bacteriology, symptomatology,
22 histology, spinal analysis, diagnosis, roentgenology, neurology,
23 and principles and practice of chiropractic, and (5) one requiring
24 an actual attendance for four college years totaling not less than
25 four thousand hours.

1 Sec. 245. Board means the Board of Chiropractic.

2 Sec. 246. Section 71-177, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~71-177 For purposes of the Uniform Licensing Law, the~~
5 ~~practice of chiropractic is defined as being~~ (1) Practice of
6 chiropractic means one or a combination of the following, without
7 the use of drugs or surgery: ~~(1)~~

8 (a) The diagnosis and analysis of the living human body
9 for the purpose of detecting ailments, disorders, and disease by
10 the use of diagnostic X-ray, physical and clinical examination, and
11 routine procedures including urine analysis; or ~~(2) the~~

12 (b) The science and art of treating human ailments,
13 disorders, and disease by locating and removing any interference
14 with the transmission and expression of nerve energy in the human
15 body by chiropractic adjustment, chiropractic physiotherapy, and
16 the use of exercise, nutrition, dietary guidance, and colonic
17 irrigation.

18 (2) The use of X-rays beyond the axial skeleton as
19 described in subdivision (1)(a) of this section shall be solely
20 for diagnostic purposes and shall not expand the practice of
21 chiropractic to include the treatment of human ailments, disorders,
22 and disease not permitted when the use of X-rays was limited to the
23 axial skeleton.

24 Sec. 247. Section 71-178, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-178 Section 71-177~~ The Chiropractic Practice Act shall
 2 not be construed to include the following classes of persons:

3 (1) Licensed physicians and surgeons and licensed
 4 osteopathic physicians who are exclusively engaged in the practice
 5 of their respective professions;

6 (2) ~~physicians of~~ Physicians who serve in the armed
 7 forces of the United States or the United States Army, Navy, or
 8 Public Health Service when acting in the line of duty in this
 9 state, or who are employed by the United States Department of
 10 Veterans Affairs or other federal agencies, if their practice is
 11 limited to that service or employment;

12 (3) ~~chiropractors~~ Chiropractors licensed in another state
 13 when incidentally called into this state in consultation with a
 14 chiropractor licensed in this state; or

15 (4) ~~students~~ Students enrolled in an accredited college
 16 of chiropractic when the services performed are a part of the
 17 course of study and are under the direct supervision of a licensed
 18 chiropractor.

19 Sec. 248. Section 71-179, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 ~~71-179~~ Every applicant for a license to practice
 22 chiropractic shall ~~(1)~~ present proof of graduation from an
 23 accredited college of chiropractic and ~~(2)~~ (1) pass an examination
 24 which consists of the following components: ~~(a)~~ Parts I and II
 25 of the examination given by the National Board of Chiropractic

1 ~~Examiners, (b) the written Clinical Competency Test given by the~~
2 ~~National Board of Chiropractic Examiners, and (c) the practical~~
3 ~~examination given which consists of Parts I, II, III, IV, and~~
4 ~~physiotherapy or (2) pass an examination approved by the Board of~~
5 ~~Chiropractic.~~

6 Sec. 249. An applicant for licensure to practice
7 chiropractic who has met the education and examination requirements
8 in section 248 of this act, who passed the examination more than
9 three years prior to the time of application for licensure, and who
10 is not practicing at the time of application for licensure shall
11 present proof satisfactory to the department that he or she has
12 within the three years immediately preceding the application for
13 licensure completed continuing competency requirements approved by
14 the board pursuant to section 45 of this act.

15 Sec. 250. Section 71-181, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-181 The Department of Health and Human Services~~
18 ~~Regulation and Licensure may in its discretion dispense with the~~
19 ~~examination in case of a chiropractor duly authorized to practice~~
20 ~~chiropractic in any other state, territory, or the District of~~
21 ~~Columbia, maintaining standards established by law or by duly~~
22 ~~authorized rules, equal to those of Nebraska, and who presents a~~
23 ~~certificate or license based on written examination issued by the~~
24 ~~proper authority of such other state, territory, or the District of~~
25 ~~Columbia.~~

1 An applicant for licensure to practice chiropractic who
2 has met the standards set by the board pursuant to section 26 of
3 this act for a license based on licensure in another jurisdiction
4 but is not practicing at the time of application for licensure
5 shall present proof satisfactory to the department that he or she
6 has within the two years immediately preceding the application for
7 licensure completed continuing competency requirements approved by
8 the board pursuant to section 45 of this act.

9 Sec. 251. The department shall establish and collect fees
10 for initial licensure and renewal under the Chiropractic Practice
11 Act as provided in sections 51 to 57 of this act.

12 Sec. 252. Section 71-182, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-182~~ Chiropractic practitioners shall observe and
15 be subject to all state and municipal laws and regulations
16 relative to the control of contagious and infectious diseases,
17 and all matters pertaining to public health. They shall report
18 to the proper health officers the same as other practitioners.
19 Chiropractic practitioners may sign death certificates. When
20 performing acupuncture, a chiropractor licensed under the Uniform
21 ~~Licensing Law~~ Credentialing Act shall provide the same standard of
22 care to patients as that provided by a person licensed under the
23 ~~Uniform Licensing Law~~ Credentialing Act to practice medicine and
24 surgery, osteopathy, or osteopathic medicine and surgery when such
25 person performs acupuncture.

1 Sec. 253. Section 71-17,117, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-17,117~~ Sections ~~71-17,117~~ ~~to 71-17,130~~ 253 to 262 of
4 this act shall be known and may be cited as the Clinical Nurse
5 Specialist Practice Act.

6 Sec. 254. For purposes of the Clinical Nurse Specialist
7 Practice Act and elsewhere in the Uniform Credentialing Act, unless
8 the context otherwise requires, the definitions found in sections
9 255 to 257 of this act apply.

10 Sec. 255. Section 71-17,118, Revised Statutes Cumulative
11 Supplement, 2006, as amended by section 28, Legislative Bill 185,
12 One Hundredth Legislature, First Session, 2007, is amended to read:

13 ~~71-17,118~~ ~~For purposes of the Clinical Nurse Specialist~~
14 ~~Practice Act.~~

15 ~~(1)~~ Approved certifying body means a national
16 certification organization which ~~(a)~~ (1) is approved by the board,
17 ~~(b)~~ (2) certifies qualified licensed registered nurses for advanced
18 practice, ~~(c)~~ (3) has eligibility requirements related to education
19 and practice, and ~~(d)~~ (4) offers an examination in an area of
20 practice which meets psychometric guidelines and tests approved by
21 the board. ~~†~~

22 ~~(2)~~ Board means the Board of Advanced Practice Registered
23 Nurses.

24 ~~(3)~~ Clinical nurse specialist means a registered nurse
25 certified as described in section 71-17,119 and licensed under the

1 ~~Advanced Practice Registered Nurse Licensure Act to practice as a~~
2 ~~clinical nurse specialist in the State of Nebraska, and~~

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

5 Sec. 256. Board means the Board of Advanced Practice
6 Registered Nurses.

7 Sec. 257. Clinical nurse specialist means a registered
8 nurse certified as described in section 260 of this act and
9 licensed under the Advanced Practice Registered Nurse Practice
10 Act to practice as a clinical nurse specialist in the State of
11 Nebraska.

12 Sec. 258. Section 71-17,120, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~71-17,120~~ The practice of a clinical nurse specialist
15 includes health promotion, health supervision, illness prevention,
16 and disease management, including assessing patients, synthesizing
17 and analyzing data, and applying advanced nursing practice. A
18 clinical nurse specialist conducts and applies research, advocates,
19 serves as an agent of change, engages in systems management, and
20 assesses and intervenes in complex health care problems within the
21 selected clinical specialty.

22 Sec. 259. Section 71-17,128, Revised Statutes Cumulative
23 Supplement, 2006, as amended by section 34, Legislative Bill 185,
24 One Hundredth Legislature, First Session, 2007, is amended to read:

25 ~~71-17,128~~ The Clinical Nurse Specialist Practice Act does

1 not prohibit the performance of the professional activities of a
2 clinical nurse specialist by a person not holding a license issued
3 under the act if performed:

4 (1) In an emergency situation;

5 (2) By a legally qualified person from another state
6 employed by the United States and performing official duties in
7 this state; or

8 (3) By a person enrolled in an approved clinical nurse
9 specialist program for the education of clinical nurse specialists
10 as part of that approved program.

11 Sec. 260. Section 71-17,119, Revised Statutes Cumulative
12 Supplement, 2006, as amended by section 29, Legislative Bill 185,
13 One Hundredth Legislature, First Session, 2007, is amended to read:

14 ~~71-17,119~~ An applicant for licensure under the Advanced
15 Practice Registered Nurse Licensure Practice Act to practice as
16 a clinical nurse specialist shall be licensed as a registered
17 nurse under the Nurse Practice Act or have the authority based on
18 the Nurse Licensure Compact to practice as a registered nurse in
19 Nebraska and shall submit to the department the following:

20 (1) Evidence that the applicant holds a graduate degree
21 in a nursing clinical specialty area or has a graduate degree in
22 nursing and has successfully completed a graduate-level clinical
23 nurse specialist education program; and

24 ~~Except as provided in section 71-17,121, evidence~~
25 Evidence of certification issued by an approved certifying body

1 or, when such certification is not available, an alternative method
 2 of competency assessment by any means ~~permitted under section~~
 3 ~~71-17,124~~ and approved by the board.

4 Sec. 261. To renew a license as a clinical nurse
 5 specialist, the applicant shall have current certification by
 6 an approved certifying body as a clinical nurse specialist or,
 7 when such certification is not available, an alternative method of
 8 competency assessment by any means approved by the board.

9 Sec. 262. Section 71-17,121, Revised Statutes Cumulative
 10 Supplement, 2006, as amended by section 30, Legislative Bill 185,
 11 One Hundredth Legislature, First Session, 2007, is amended to read:

12 ~~71-17,121 (1) An applicant who meets the requirements for~~
 13 ~~licensure in section 71-17,119 shall be licensed by the department~~
 14 ~~as a clinical nurse specialist, except that a person practicing~~
 15 ~~as a clinical nurse specialist pursuant to the Nurse Practice~~
 16 ~~Act on July 1, 2007, who applies on or after such date and~~
 17 ~~before September 1, 2007, shall be licensed as a clinical nurse~~
 18 ~~specialist under this section without complying with subdivision~~
 19 ~~(2) of section 71-17,119.~~

20 ~~(2) A person licensed as a clinical nurse specialist~~
 21 ~~has the right to use the title Clinical Nurse Specialist and the~~
 22 ~~abbreviation CNS.~~

23 Sec. 263. Section 71-340, Revised Statutes Cumulative
 24 Supplement, 2006, is amended to read:

25 ~~71-340~~ Sections ~~71-340~~ ~~to~~ ~~71-3,238~~ 263 to 433 of this

1 act shall be known and may be cited as the ~~Nebraska~~ Cosmetology,
2 Electrology, Esthetics, Nail Technology, and Body Art Practice Act.

3 Sec. 264. Section 71-341, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-341~~ The Legislature finds that: (1) A great number
6 of Nebraska citizens regularly demand and receive cosmetology,
7 nail technology, esthetics, electrology, and body art services;
8 (2) the practices of cosmetology, nail technology, esthetics,
9 electrology, and body art involve the use of implements and
10 chemicals that, if used or applied improperly, can be hazardous
11 to human health and safety; (3) inadequate sanitation in the
12 practice of cosmetology, nail technology, esthetics, electrology,
13 or body art can encourage the spread of contagious diseases,
14 infections, and infestations to the detriment of the health and
15 safety of the public; (4) the knowledge of proper sanitation
16 techniques and the proper use of implements and chemicals can
17 best be gained by rigorous and extensive training in cosmetology,
18 nail technology, and esthetics at institutions operated exclusively
19 for such purposes; (5) the need of the public to be served by
20 well-trained persons and the need of cosmetology, nail technology,
21 and esthetics students to receive an appropriate education can
22 best be met through the enactment of standards for the approval
23 of schools of cosmetology, nail technology schools, and schools of
24 esthetics; (6) the effectiveness of cosmetology, nail technology,
25 esthetics, or electrology training and the competency to practice

1 can best be demonstrated by the passage of an impartially
2 administered examination before a person is permitted to practice;
3 (7) continuing competency can best be demonstrated by participation
4 in continuing competency activities; (8) the establishment and
5 maintenance of a safe environment in places where cosmetology, nail
6 technology, esthetics, electrology, or body art is practiced can
7 best be ensured through the establishment of operating and sanitary
8 requirements for the safe and sanitary operation of such places;
9 (9) the protection of the health and safety of its citizens is
10 a principal concern and duty of the State of Nebraska; and (10)
11 the reasonable regulation and limitation of a field of practice or
12 occupation for the purpose of protecting the health and safety of
13 the public is a legitimate and justified exercise of the police
14 power of the state.

15 Sec. 265. Section 71-342, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 ~~71-342~~ The Legislature declares its intent to implement
18 the findings specified in section ~~71-341~~ 264 of this act
19 through the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail
20 Technology, and Body Art Practice Act, to regulate the practices
21 and professions of cosmetology, nail technology, esthetics,
22 electrology, and body art and cosmetology, nail technology,
23 esthetics, and body art education in all forms, to limit the
24 practice and teaching of cosmetology, nail technology, esthetics,
25 or body art to persons and institutions as stipulated in the

1 ~~Nebraska Cosmetology Act,~~ act and to penalize persons violating
2 ~~such the~~ act. The Legislature directs that all interpretations of
3 the act be made with full cognizance of the findings and intentions
4 expressed in this section and section ~~71-341.~~ 264 of this act.

5 Sec. 266. Section 71-343, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-343~~ For purposes of the ~~Nebraska Cosmetology,~~
8 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
9 and elsewhere in the Uniform Credentialing Act, unless the context
10 otherwise requires, the definitions found in sections ~~71-344 to~~
11 ~~71-372 shall be used.~~ 267 to 318 of this act apply.

12 Sec. 267. Section 71-344, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-344~~ Apprentice ~~shall mean~~ means a person registered
15 under the ~~Nebraska Cosmetology,~~ Electrology, Esthetics, Nail
16 Technology, and Body Art Practice Act to engage in the study of any
17 or all of the practices of cosmetology under the supervision of an
18 instructor in an apprentice salon.

19 Sec. 268. Section 71-345, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-345~~ Apprentice salon ~~shall mean~~ means a cosmetology
22 salon licensed under the ~~Nebraska Cosmetology,~~ Electrology,
23 Esthetics, Nail Technology, and Body Art Practice Act to serve
24 as the site for the teaching of any or all of the practices of
25 cosmetology to apprentices.

1 Sec. 269. Section 71-346, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-346 Board shall mean~~ means the Board of Cosmetology,
4 Electrology, Esthetics, Nail Technology, and Body Art. Examiners-

5 Sec. 270. Section 71-346.01, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-346.01~~ Body art means body piercing, branding,
8 permanent color technology, and tattooing.

9 Sec. 271. Section 71-346.02, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 ~~71-346.02~~ Body art facility means any room or space or
12 any part thereof where body art is performed or where the business
13 of body art is conducted.

14 Sec. 272. Section 71-346.03, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 ~~71-346.03~~ Body piercing means puncturing the skin of a
17 person by aid of needles or other instruments designed or used to
18 puncture the skin for the purpose of inserting removable jewelry
19 or other objects through the human body, except that body piercing
20 does not include puncturing the external part of the human earlobe.

21 Sec. 273. Section 71-346.04, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 ~~71-346.04~~ Branding means a permanent mark made on human
24 tissue by burning with a hot iron or other instrument.

25 Sec. 274. Section 71-347, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-347~~ Charitable administration means the performance of
3 any or all of the practices of cosmetology or nail technology
4 without compensation for the benefit of charitable purposes or
5 organizations.

6 Sec. 275. Section 71-348, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-348~~ Cosmetic establishment means a fixed structure or
9 part thereof licensed under the Nebraska Cosmetology, Electrology,
10 Esthetics, Nail Technology, and Body Art Practice Act to serve as
11 the site for the retail sale of cosmetics or other esthetics
12 products when such activity includes any application of the
13 products to customers other than self-application.

14 Sec. 276. Section 71-349, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-349~~ Cosmetician ~~shall mean~~ means a person registered
17 under the Nebraska Cosmetology, Electrology, Esthetics, Nail
18 Technology, and Body Art Practice Act to apply cosmetics.

19 Sec. 277. Section 71-350, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-350~~ Cosmetologist ~~shall mean~~ means a person licensed
22 under the Nebraska Cosmetology, Electrology, Esthetics, Nail
23 Technology, and Body Art Practice Act to perform all of the
24 practices of cosmetology.

25 Sec. 278. Section 71-351, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-351~~ Cosmetology means the practice of performing for
3 compensation any or all (1) of the acts of arranging, dressing,
4 curling, waving, cleansing, cutting, bleaching, coloring, styling,
5 or similar work upon the hair, wig, wiglet, or hairpiece of any
6 person, by any means, with hands or a mechanical or electrical
7 apparatus or appliance; (2) esthetics; (3) nail technology; and (4)
8 other similar practices upon the hair, scalp, face, neck, arms,
9 hands, feet, or nails of any person when performed for the purpose
10 of beautifying or enhancing physical appearance or the teaching of
11 any practice specified in this section for occupational purposes.

12 Sec. 279. Section 71-352, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-352~~ Cosmetology establishment means a cosmetology
15 salon, esthetics salon, school of cosmetology, school of esthetics,
16 apprentice salon, cosmetic establishment, or any other place in
17 which any or all of the practices of cosmetology are performed
18 on members of the general public for compensation or in which
19 instruction or training in any or all of the practices of
20 cosmetology is given, except when such practices constitute
21 nonvocational training.

22 Sec. 280. Section 71-353, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-353~~ Cosmetology salon ~~shall mean~~ means a fixed
25 structure or part thereof licensed under the ~~Nebraska~~ Cosmetology,

1 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
2 to serve as the site for the performance of any or all of the
3 practices of cosmetology by persons licensed or registered under
4 such act.

5 Sec. 281. Section 71-356, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-356~~ Domestic administration means the performance of
8 any or all of the practices of cosmetology or nail technology upon
9 members of a person's immediate family.

10 Sec. 282. Section 71-356.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-356.01~~ Electrologist ~~shall mean~~ means a person who
13 engages in the practice of electrolysis for permanent hair removal.

14 Sec. 283. Section 71-356.02, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-356.02~~ Electrology ~~shall mean~~ means the art and
17 practice relating to the removal of hair from normal skin of
18 the human body by electrolysis.

19 Sec. 284. Section 71-356.03, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-356.03~~ Electrology establishment ~~shall mean~~ means a
22 fixed structure or part thereof or any other place in which any or
23 all of the practices of electrology are performed on members of the
24 general public for compensation or where instruction or training in
25 electrology is performed except when such training is nonvocational

1 training.

2 Sec. 285. Section 71-356.04, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 ~~71-356.04~~ Electrology instructor means a person licensed
5 under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail
6 Technology, and Body Art Practice Act to teach any or all of the
7 practices of electrology.

8 Sec. 286. Section 71-356.05, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-356.05~~ Electrolysis ~~shall mean~~ means the permanent
11 removal of hair by the application of an electrical current to the
12 dermal papilla by a filament to cause decomposition, coagulation,
13 or dehydration within the hair follicle by means of short wave or
14 galvanic current or the blend, as approved by the federal Food and
15 Drug Administration.

16 Sec. 287. Section 71-357, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-357~~ Esthetician means a person licensed under the
19 ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and
20 Body Art Practice Act to perform all of the practices of esthetics.

21 Sec. 288. Section 71-357.01, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-357.01~~ Esthetics means the practice for compensation
24 of using an electrical or mechanical apparatus or appliance or
25 applying and using cosmetic preparations, antiseptics, chemicals,

1 tonics, lotions, creams, or other similar products upon the skin
2 for personal beauty care.

3 Sec. 289. Section 71-357.02, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-357.02~~ Esthetics instructor means a person licensed
6 under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail
7 Technology, and Body Art Practice Act to teach any or all of the
8 practices of esthetics in a school of cosmetology or a school of
9 esthetics.

10 Sec. 290. Section 71-357.03, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-357.03~~ Esthetics salon means a fixed structure or
13 part thereof licensed under the ~~Nebraska~~ Cosmetology, Electrology,
14 Esthetics, Nail Technology, and Body Art Practice Act to serve as
15 the site for the performance of any or all of the practices of
16 esthetics by persons licensed or registered under such act.

17 Sec. 291. Section 71-358, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-358~~ Guest artist ~~shall mean~~ means a person registered
20 under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail
21 Technology, and Body Art Practice Act to demonstrate cosmetology
22 products or procedures for the purpose of imparting professional
23 knowledge and information to persons licensed or registered under
24 the ~~Nebraska Cosmetology Act~~ act or to persons owning or operating
25 licensed cosmetology establishments under the sponsorship of a

1 licensed cosmetology establishment or a cosmetologist licensed in
2 Nebraska.

3 Sec. 292. Section 71-358.01, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-358.01~~ Guest body artist means a person registered
6 under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail
7 Technology, and Body Art Practice Act to demonstrate body art
8 products or procedures for the purpose of imparting professional
9 knowledge and information to persons licensed in this state to
10 perform body art or to persons owning or operating a licensed body
11 art facility under the sponsorship of a licensed body art facility
12 or a person licensed in this state to perform body art.

13 Sec. 293. Section 71-359, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-359~~ Instructor ~~shall mean~~ means a person licensed
16 under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail
17 Technology, and Body Art Practice Act to teach any or all of
18 the practices of cosmetology in a school of cosmetology or an
19 apprentice salon.

20 Sec. 294. Section 71-360, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-360~~ Jurisdiction ~~shall mean~~ means the District of
23 Columbia and any state, territory, or possession of the United
24 States of America.

25 Sec. 295. Section 71-360.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-360.01~~ Manicuring means the practice of performing
3 any or all of the acts of cutting, shaping, trimming, polishing,
4 coloring, tinting, cleansing, reshaping, or other similar cosmetic
5 or sanitary acts on the natural fingernails or toenails of a person
6 but does not include the practice of nail technology.

7 Sec. 296. Section 71-361.01, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-361.01~~ Nail technician means a person licensed under
10 the ~~Nebraska Cosmetology, Electrology, Esthetics, Nail Technology,~~
11 and Body Art Practice Act to perform the practices of nail
12 technology.

13 Sec. 297. Section 71-361.02, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-361.02~~ Nail technology means (1) attaching, applying,
16 fitting, shaping, or adjusting artificial nails using acrylic,
17 resin, fabric, or gel application systems, (2) sanitizing of the
18 nail bed by brushing on or spraying material in preparation for
19 attaching, fitting, shaping, or adjusting artificial nails using
20 acrylic, resin, fabric, or gel application systems, (3) cutting,
21 filing, buffing, shaping, trimming, polishing, coloring, tinting,
22 cleansing, reshaping, or other cosmetic acts on the nails of a
23 person when done in conjunction with the activities described in
24 subdivisions (1) and (2) of this section, (4) the ability to
25 detect infection, fungus, or nail disorders that contraindicate the

1 application of artificial nails, and (5) cleansing, stimulating,
2 manipulating, exercising, or similar acts on the hands or feet of
3 any person when done in conjunction with the activities described
4 in subdivisions (1) and (2) of this section. Nail technology
5 does not include cutting nail beds, corns, or calluses or medical
6 treatment involving the feet, hands, or nails.

7 Sec. 298. Section 71-361.03, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-361.03~~ Nail technology establishment means a nail
10 technology salon, nail technology school, or any other place in
11 which the practices of nail technology are performed on members
12 of the general public for compensation or in which instruction or
13 training in the practices of nail technology is given, except when
14 such practices constitute nonvocational training.

15 Sec. 299. Section 71-361.04, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-361.04~~ Nail technology instructor means a person
18 licensed under the Nebraska Cosmetology, Electrology, Esthetics,
19 Nail Technology, and Body Art Practice Act to teach the practices
20 of nail technology in a nail technology school.

21 Sec. 300. Section 71-361.05, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-361.05~~ Nail technology salon means a fixed structure
24 or part thereof licensed under the Nebraska Cosmetology,
25 Electrology, Esthetics, Nail Technology, and Body Art Practice Act

1 to serve as the site for the performance of the practices of nail
2 technology by persons licensed or registered under the act.

3 Sec. 301. Section 71-361.06, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-361.06~~ Nail technology school means a fixed structure
6 or part thereof licensed under the ~~Nebraska~~ Cosmetology,
7 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
8 to serve as the site for teaching the practices of nail technology
9 to nail technology students.

10 Sec. 302. Section 71-361.07, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-361.07~~ Nail technology student means a person engaged
13 in the study of the practices of nail technology under the
14 supervision of a nail technology instructor in a nail technology
15 school.

16 Sec. 303. Section 71-361.08, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-361.08~~ Nail technology student instructor means a
19 person engaged in nail technology instructor's training in a
20 nail technology school to teach nail technology students in a
21 nail technology school under the supervision of a nail technology
22 instructor.

23 Sec. 304. Section 71-361.09, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-361.09~~ Nail technology temporary practitioner means

1 a person ~~registered~~ licensed under the ~~Nebraska~~ Cosmetology,
2 Electrology, Esthetics, Nail Technology, and Body Art Practice
3 Act to perform the practices of nail technology for a limited
4 time under the supervision of a licensed nail technician or nail
5 technology instructor.

6 Sec. 305. Section 71-362, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-362~~ Nonvocational training means the act of imparting
9 knowledge of or skills in any or all of the practices of
10 cosmetology, nail technology, esthetics, or electrology to persons
11 not licensed or registered under the ~~Nebraska~~ Cosmetology,
12 Electrology, Esthetics, Nail Technology, and Body Art Practice
13 Act for the purpose of noncommercial use by those receiving such
14 training.

15 Sec. 306. Section 71-362.01, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 ~~71-362.01~~ Permanent color technology means the process by
18 which the skin is marked or colored by insertion of nontoxic dyes
19 or pigments into or under the subcutaneous portion of the skin upon
20 the body of a live human being so as to form indelible marks for
21 cosmetic purposes.

22 Sec. 307. Section 71-363.01, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 ~~71-363.01~~ Practices regulated under the ~~Nebraska~~
25 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

1 Practice Act means body art, cosmetology, electrology, esthetics,
2 and nail technology.

3 Sec. 308. Section 71-364, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-364~~ Practitioner means a person who performs any or
6 all of the practices of cosmetology, nail technology, esthetics,
7 or electrology for compensation or who performs any or all of the
8 practices of body art.

9 Sec. 309. Section 71-365, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-365~~ School of cosmetology ~~shall mean~~ means a fixed
12 structure or part thereof licensed under the ~~Nebraska Cosmetology,~~
13 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
14 to serve as the site for the teaching of any or all of the
15 practices of cosmetology to students.

16 Sec. 310. Section 71-365.01, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-365.01~~ School of electrolysis means a school for the
19 education and training of electrologists.

20 Sec. 311. Section 71-365.02, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-365.02~~ School of esthetics means a fixed structure or
23 part thereof licensed under the ~~Nebraska Cosmetology,~~ Electrology,
24 Esthetics, Nail Technology, and Body Art Practice Act to serve
25 as the site for teaching the practices of esthetics to esthetics

1 students.

2 Sec. 312. Section 71-368, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 ~~71-368~~ Student means a person ~~registered under the~~
5 ~~Nebraska Cosmetology Act to engage~~ engaged in the study of any
6 or all of the practices of cosmetology or esthetics under the
7 supervision of an instructor or esthetics instructor in a school of
8 cosmetology or school of esthetics.

9 Sec. 313. Section 71-369, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-369~~ Student instructor means a person ~~registered under~~
12 ~~the Nebraska Cosmetology Act to engage~~ engaged in instructor's
13 or esthetics instructor's training in a school of cosmetology or
14 school of esthetics and ~~to teach~~ in teaching students in a school
15 of cosmetology or school of esthetics under the supervision of an
16 instructor.

17 Sec. 314. Section 71-370, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-370~~ Supervision ~~shall mean~~ means direct day-to-day
20 knowledge of and control over the actions of one individual by
21 another.

22 Sec. 315. Section 71-370.01, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 ~~71-370.01~~ Tattoo means the indelible decorative mark,
25 figure, or design introduced by insertion of nontoxic dyes or

1 pigments into or under the subcutaneous portion of the skin upon
2 the body of a live human being.

3 Sec. 316. Section 71-370.02, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-370.02~~ Tattooing means the process by which the skin
6 is marked or colored by insertion of nontoxic dyes or pigments into
7 or under the subcutaneous portion of the skin upon the body of a
8 live human being so as to form indelible marks for decorative or
9 figurative purposes.

10 Sec. 317. Section 71-371, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-371~~ Teaching means the act of imparting and
13 demonstrating knowledge of cosmetology, nail technology, esthetics,
14 or electrology theory and practices to students, nail technology
15 students, or apprentices in an apprentice salon, a school of
16 cosmetology, a nail technology school, or a school of esthetics
17 by an instructor, an esthetics instructor, a nail technology
18 instructor, a nail technology student instructor, or a student
19 instructor for the purpose of preparing the students, nail
20 technology students, nail technology student instructors, or
21 apprentices to engage in the occupations of cosmetology, nail
22 technology, esthetics, or electrology.

23 Sec. 318. Section 71-372, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-372~~ Temporary practitioner ~~shall mean~~ means a person

1 ~~registered~~ licensed under the ~~Nebraska Cosmetology, Electrology,~~
2 Esthetics, Nail Technology, and Body Art Practice Act to perform
3 any or all of the practices of cosmetology for a limited time under
4 the supervision of a ~~person licensed under such act,~~ at all times
5 of a designated supervisor.

6 Sec. 319. Section 71-374, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-374 (1) ~~Until October 1, 2005, the board shall be~~
9 ~~composed of eleven members. On and after October 1, 2005, the~~
10 ~~board shall be composed of twelve members. The board shall include~~
11 ~~two school owners, one esthetician, one licensed instructor, two~~
12 ~~laypersons, one cosmetologist who is a salon owner and who is~~
13 ~~not a school owner, one electrologist who is not a licensed~~
14 ~~cosmetologist, one nail technician, two cosmetologists who are not~~
15 ~~school owners, and one practitioner of body art as provided in this~~
16 ~~section. The professional members shall be licensed in Nebraska and~~
17 ~~maintain such license as well as their establishment licenses in~~
18 ~~good standing. The board shall consist of ten professional members~~
19 ~~and two public members appointed pursuant to section 58 of this~~
20 ~~act. The members shall meet the requirements of sections 64 and 65~~
21 ~~of this act.~~

22 (2) The professional members shall include:

23 (a) One school owner who is also licensed as either a
24 cosmetologist, nail technician, or esthetician;

25 (b) One salon owner who is licensed as a cosmetologist;

- 1 (c) Two cosmetologists who are not school owners;
2 (d) One nail technician who is not a school owner;
3 (e) One esthetician who is not a school owner;
4 (f) One electrologist;
5 (g) One practitioner of body art;
6 (h) One nail technology instructor or esthetics
7 instructor who is not a school owner; and
8 (i) One cosmetology instructor who is not a school owner.

9 (3) No members of the board who are school owners,
10 salon owners, electrologists, nail technicians, instructors,
11 cosmetologists, or practitioners of body art may be affiliated with
12 the same establishment.

13 (4) As the terms of the members serving on December 1,
14 2008, expire, successors shall be appointed in accordance with
15 subsection (2) of this section.

16 ~~(2) By October 1, 2005, the State Board of Health shall~~
17 ~~appoint one practitioner of body art for a five-year term.~~

18 ~~(3) Members of the board shall be appointed by the State~~
19 ~~Board of Health from among nominees submitted by professional~~
20 ~~associations and other interested parties. A person may nominate~~
21 ~~himself or herself.~~

22 ~~(4) The State Board of Health may remove a member of the~~
23 ~~board for physical or mental incapacity to carry out the duties of~~
24 ~~a board member, for continued neglect of duty, for incompetency,~~
25 ~~for acting beyond the individual member's scope of authority, for~~

1 malfeasance in office, for any cause for which a professional
2 license in the profession involved may be suspended or revoked
3 under the Nebraska Cosmetology Act, or for a lack of licensure in
4 the profession involved.

5 ~~(5) Vacancies on the board shall be filled in the same~~
6 manner as original appointments for the remainder of the unexpired
7 term only.

8 ~~(6) Members of the board, unless otherwise specifically~~
9 provided, shall serve for five-year terms, and no member shall
10 serve for more than two consecutive terms excluding any partial
11 term for which he or she may have been appointed.

12 Sec. 320. Section 71-385, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-385 Commencing on July 17, 1986, it~~ It shall be
15 unlawful for any person, group, company, or other entity to engage
16 in any of the following acts without being duly licensed or
17 registered as required by the Nebraska Cosmetology, Electrology,
18 Esthetics, Nail Technology, and Body Art Practice Act, unless
19 specifically excepted by such act:

20 (1) To engage in or follow or to advertise or hold
21 oneself out as engaging in or following any of the practices of
22 cosmetology or to act as a practitioner;

23 (2) To engage in or advertise or hold oneself out as
24 engaging in the teaching of any of the practices of cosmetology; or

25 (3) To operate or advertise or hold oneself out as

1 operating a cosmetology establishment in which any of the practices
 2 of cosmetology or the teaching of any of the practices of
 3 cosmetology are carried out.

4 Sec. 321. Section 71-385.01, Revised Statutes Cumulative
 5 Supplement, 2006, is amended to read:

6 ~~71-385.01~~ No person, group, company, limited liability
 7 company, or other entity shall engage in any of the following
 8 acts without being duly licensed as required by the ~~Nebraska~~
 9 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
 10 Practice Act, unless specifically excepted by such act:

11 (1) To engage in or follow or to advertise or hold
 12 oneself out as engaging in or following any of the practices of
 13 electrology; or

14 (2) To engage in or advertise or hold oneself out as
 15 engaging in the teaching of any of the practices of electrology. ~~+~~
 16 ~~or~~

17 ~~(3) To operate or advertise or hold oneself out as~~
 18 ~~operating an establishment in which any of the practices of~~
 19 ~~electrology are carried out.~~

20 Sec. 322. Section 71-385.02, Revised Statutes Cumulative
 21 Supplement, 2006, is amended to read:

22 ~~71-385.02~~ (1) ~~On or after April 1, 2005, no~~ No person
 23 shall perform any of the practices of body art or display a sign
 24 to, or in any other way, advertise or purport to be engaged in the
 25 business of practicing body art unless such person is licensed by

1 the department.

2 (2) An applicant for licensure in any of the practices of
3 body art shall show to the satisfaction of the department that the
4 applicant:

5 (a) Has complied with the ~~Nebraska~~ Cosmetology,
6 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
7 and the applicable rules and regulations adopted and promulgated
8 under the act;

9 (b) Is at least eighteen years of age;

10 (c) Has a ~~high school diploma or GED,~~ completed formal
11 education equivalent to a United States high school education;

12 (d) Has submitted evidence of training or experience
13 prescribed or approved by the board to ensure the protection of
14 the public in performing the practices of body art for which the
15 applicant is seeking licensure; and

16 (e) Has successfully completed an examination prescribed
17 or approved by the board to test the applicant's knowledge of
18 safety, sanitation, and sterilization techniques and infection
19 control practices and requirements. ~~7~~ except that the department
20 may waive all or a portion of the examination for persons engaged
21 in the practice of body art prior to April 1, 2005, upon submission
22 of evidence satisfactory to the department.

23 Sec. 323. Section 71-386, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 ~~71-386~~ (1) All practitioners shall be licensed or

1 registered by the department under the ~~Nebraska~~ Cosmetology,
 2 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
 3 in a category or categories appropriate to their practice.

4 (2) Licensure shall be required before any person
 5 may engage in the full, unsupervised practice or teaching of
 6 cosmetology, electrology, esthetics, nail technology, or ~~or~~ ~~or~~
 7 ~~after April 1, 2005,~~ body art, and no person may assume the title
 8 of cosmetologist, electrologist, esthetician, instructor, nail
 9 technician, nail technology instructor, esthetics instructor, ~~or~~ ~~or~~
 10 ~~or~~ ~~after April 1, 2005,~~ permanent color technician, tattoo artist,
 11 body piercer, or body brander without first being licensed by the
 12 department.

13 (3) All licensed practitioners shall practice in an
 14 appropriate licensed establishment or facility. ~~under the Nebraska~~
 15 ~~Cosmetology Act.~~

16 Sec. 324. Section 71-387, Revised Statutes Cumulative
 17 Supplement, 2006, is amended to read:

18 ~~71-387~~ In order to be licensed by the department
 19 by examination, an individual shall meet, and present to the
 20 department evidence of meeting, the following requirements:

21 (1) Has attained the age of seventeen years on or before
 22 the beginning date of the examination for which application is
 23 being made; ~~as evidenced by a birth certificate, baptismal~~
 24 ~~certificate, or other equivalent document as determined by the~~
 25 ~~department.~~

1 (2) Has completed formal education equivalent to a United
2 States high school education; as evidenced by a high school
3 diploma, general educational development certificate, or equivalent
4 document as determined by the department;

5 ~~(3)~~ Possesses the ability to identify and respond
6 to emergency situations that could occur in the practice of
7 cosmetology, esthetics, or electrology, as evidenced by successful
8 completion of a basic first-aid course;

9 ~~(4)~~ Makes complete and proper application to the
10 department which includes the individual's social security number,
11 accompanied by the appropriate fee;

12 ~~(5)~~ (3) Possesses a minimum competency in the knowledge
13 and skills necessary to perform the practices for which licensure
14 is sought, as evidenced by successful completion of an examination
15 in the appropriate practices approved by the board and administered
16 by the department;

17 ~~(6)~~ (4) Possesses sufficient ability to read the English
18 language to permit the applicant to practice in a safe manner, as
19 evidenced by successful completion of the written examination; and

20 ~~(7)~~ (5) Has graduated from a school of cosmetology or an
21 apprentice salon in or outside of Nebraska, a school of esthetics
22 in or outside of Nebraska, or a school of electrolysis upon
23 completion of a program of studies appropriate to the practices
24 for which licensure is being sought, as evidenced by a diploma or
25 certificate from the school or apprentice salon to the effect that

1 the applicant has complied with the following:

2 (a) For licensure as a cosmetologist, the program of
3 studies shall consist of a minimum of two thousand one hundred
4 hours and two thousand credits;

5 (b) For licensure as an esthetician, the program of
6 studies shall consist of a minimum of six hundred hours and six
7 hundred credits;

8 (c) For licensure as a cosmetology instructor, the
9 program of studies shall consist of a minimum of nine hundred
10 twenty-five hours beyond the program of studies required for
11 licensure as a cosmetologist earned in a period of not less than
12 six months;

13 (d) For licensure as a cosmetology instructor, be
14 currently licensed as a cosmetologist in Nebraska, as evidenced by
15 possession of a valid Nebraska cosmetology license;

16 (e) For licensure as an electrologist, the program of
17 studies shall consist of a minimum of six hundred hours and six
18 hundred credits;

19 (f) For licensure as an electrology instructor, be
20 currently licensed as an electrologist in Nebraska and have
21 practiced electrology actively for at least ~~five~~ two years
22 immediately before the application; and

23 (g) For licensure as an esthetics instructor, completion
24 of a program of studies consisting of a minimum of three hundred
25 hours beyond the program of studies required for licensure as an

1 esthetician and current licensure as an esthetician in Nebraska.

2 If any lapse in training of two years or longer occurs,
3 all hours and credits earned shall be forfeited. Hours and credits
4 shall be earned exclusively in either a school of cosmetology,
5 school of esthetics, school of electrolysis, or apprentice salon.
6 No hours or credits earned in one type of establishment may be
7 transferred to an establishment of another type. The department
8 shall grant a license in the appropriate category to any person
9 meeting the requirements specified in this section.

10 Sec. 325. Section 71-388, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-388 Application for any type of licensure or~~
13 ~~registration shall be made on forms and in the manner prescribed~~
14 ~~by the department with the approval of the board. A complete~~
15 ~~application for examination shall be postmarked no later than~~
16 ~~fifteen days before the beginning of the examination for which~~
17 ~~application is being made. Applications received after such~~
18 ~~date shall be considered as applications for the next scheduled~~
19 ~~examination. No application for any type of licensure or~~
20 ~~registration shall be considered complete unless all information~~
21 ~~requested in the application has been supplied, all seals and~~
22 ~~signatures required have been obtained, and all supporting and~~
23 ~~documentary evidence has been received by the department.~~ ~~and the~~
24 ~~application is accompanied by the appropriate fee established and~~
25 ~~collected as provided in section 71-162.~~

1 Sec. 326. Section 71-389, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-389~~ (1) The board shall approve and the department
4 shall cause examinations to be administered as required for
5 licensure under the ~~Nebraska~~ Cosmetology, Electrology, Esthetics,
6 Nail Technology, and Body Art Practice Act for the purpose of
7 establishing the possession of minimum competency in the knowledge
8 and skills required on the part of the applicant.

9 (2) No person shall be permitted to take an examination
10 for licensure unless he or she has met all the requirements of
11 subdivisions (1), ~~through (4)~~ (2), and ~~(7)~~ (5) of section ~~71-387~~
12 324 of this act except for persons taking the examination under
13 section ~~71-395- 329~~ of this act.

14 ~~(3)~~ The department shall provide at least one year's
15 notice of future examination dates to schools of cosmetology and
16 apprentice salons. Such establishments shall be responsible for
17 notifying their students and apprentices of upcoming examination
18 dates.

19 Sec. 327. Section 71-390, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-390~~ (1) Examinations approved by the board may
22 be national standardized examinations, but in all cases the
23 examinations shall be related to the knowledge and skills necessary
24 to perform the practices being examined and shall be related to the
25 curricula required to be taught in schools of cosmetology, schools

1 of esthetics, or schools of electrolysis.

2 (2) ~~The board shall fix the time and place of each~~
3 ~~examination no less than one year in advance. At least two~~
4 ~~examinations shall be given annually. All examinations shall be~~
5 ~~conducted in the city of Lincoln unless ordered otherwise by the~~
6 ~~department.~~

7 ~~(3) If examinations are administered directly by the~~
8 ~~department, the examination shall be administered by a chief~~
9 ~~examiner who shall be an employee of the department. Persons~~
10 ~~-serving as examiners for practical examinations administered~~
11 ~~directly by the department shall hold current licenses in the field~~
12 ~~of practice being examined or in cosmetology, except that examiners~~
13 ~~for instructors' examinations shall each hold an instructor's~~
14 ~~license, either active or inactive.~~

15 ~~(4) (3) Practical examinations may be offered as either~~
16 ~~written or hands-on and shall be conducted in such a manner that~~
17 ~~the identity of the applicant is not disclosed to the examiners in~~
18 ~~any way.~~

19 ~~(5) (4) In order to successfully complete the~~
20 ~~examination, an applicant shall obtain an average grade of~~
21 ~~seventy-five percent on all examinations. the written examination~~
22 ~~and an average grade of seventy-five percent with no individual~~
23 ~~subject grade below sixty-five percent on the practical~~
24 ~~examination.~~

25 ~~(6) For practical examinations administered directly by~~

1 the department, examination grades shall be approved by the board
2 and the department before they become official. Any disagreements
3 regarding a grade to be given among the examiners shall be settled
4 by the chief examiner. An examiner may appeal such a decision to
5 the Director of Regulation and Licensure or his or her designee.

6 ~~(7) The department shall keep a permanent record of all
7 grades received in examinations and shall provide any individual a
8 copy of his or her grades upon request without charge.~~

9 ~~(8) The department may adopt and promulgate rules and
10 regulations to provide for procedures, development, administration,
11 scoring, and reviewing of examinations and to protect the security
12 of the contents of examination questions and answers in the
13 examination review. The department shall not enter into an
14 agreement to adopt an examination from a national testing service
15 without first obtaining from such service detailed documentation of
16 the process of examination development and maintenance.~~

17 Sec. 328. Section 71-394, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-394~~ The department may waive the requirement for
20 examination and grant a license based on licensure in another
21 jurisdiction to any person who meets the requirements of
22 subdivisions (1) ~~through (4)~~ and (2) of section ~~71-387~~ 324 of this
23 act and who presents proof of the following:

24 (1) That he or she is currently licensed in the
25 appropriate category in another jurisdiction, and that he or

1 she has never been disciplined or had his or her license revoked.
2 ~~7 and that, so far as the records of the licensing authority~~
3 ~~of the jurisdiction are concerned, the applicant is entitled to~~
4 ~~its endorsement.~~ An applicant seeking licensure as an instructor
5 in the manner provided in this section shall be licensed as an
6 instructor in another jurisdiction. An applicant seeking licensure
7 as a cosmetologist in the manner provided in this section shall be
8 licensed as a cosmetologist in another jurisdiction. An applicant
9 seeking licensure as an esthetician in the manner provided in this
10 section shall be licensed as a cosmetologist, an esthetician, or
11 an equivalent title in another jurisdiction. An applicant seeking
12 licensure as an esthetics instructor in the manner provided in this
13 section shall be licensed as a cosmetology instructor, esthetics
14 instructor, or the equivalent in another jurisdiction. An applicant
15 seeking licensure as an electrologist or an electrology instructor
16 in the manner provided in this section shall be licensed as
17 an electrologist or an electrology instructor, respectively, in
18 another jurisdiction;

19 (2) That such license was issued on the basis of
20 a ~~written and practical~~ an examination and the results of
21 the ~~examinations, except that a practical examination shall not~~
22 ~~be required for an electrologist's or electrology instructor's~~
23 ~~license;~~ examination. If an examination was not required for
24 licensure in the other jurisdiction, the applicant shall take the
25 Nebraska examination; and

1 (3) That the applicant complies with the hour
2 requirements of subdivision ~~(7)~~ (5) of section ~~71-387~~ 324 of
3 this act through any combination of hours earned as a student
4 or apprentice in a cosmetology establishment or an electrology
5 establishment licensed or approved by the jurisdiction in which
6 it was located and hour-equivalents granted for recent work
7 experience, with hour-equivalents recognized as follows:

8 (a) Each month of full-time practice as an instructor
9 within the five years immediately preceding application shall be
10 valued as one hundred hour-equivalents toward an instructor's
11 license or a cosmetology license and ~~fifty~~ one hundred
12 hour-equivalents toward an esthetician's license;

13 (b) Each month of full-time practice as a cosmetologist
14 within the five years immediately preceding application shall be
15 valued as one hundred hour-equivalents toward a cosmetology license
16 and ~~fifty~~ one hundred hour-equivalents toward an esthetician's
17 license;

18 (c) Each month of full-time practice as an esthetician
19 within the five years immediately preceding application shall
20 be valued as ~~fifty~~ one hundred hour-equivalents toward an
21 esthetician's license;

22 (d) Each month of full-time practice as an esthetics
23 instructor within the five years immediately preceding application
24 shall be valued as one hundred hour-equivalents toward an esthetics
25 instructor's license; and

1 (e) Each month of full-time practice as an electrologist
 2 within the five years immediately preceding application shall
 3 be valued as ~~fifty~~ one hundred hour-equivalents toward an
 4 electrologist's license.

5 Sec. 329. Section 71-395, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 ~~71-395~~ (1) Applicants for Nebraska licensure who received
 8 their training in foreign countries may not be licensed by waiver
 9 of examination. In order to be considered eligible to take the
 10 examination, they shall meet the requirements of subdivisions (1)
 11 ~~through (4)~~ and (2) of section ~~71-387~~ 324 of this act and, in
 12 order to establish equivalency with subdivision ~~(7)~~ (5) of section
 13 ~~71-387~~, 324 of this act, shall present proof satisfactory to the
 14 department of one of the following:

15 ~~(1)~~ (a) Current licensure or equivalent official
 16 recognition of the right to practice in a foreign country; or

17 ~~(2)~~ (b) At least five years of practice within the eight
 18 years immediately preceding the application.

19 (2) In all cases such applicants shall take the
 20 examination for licensure in the State of Nebraska.

21 Sec. 330. Section 71-396, Revised Statutes Cumulative
 22 Supplement, 2006, is amended to read:

23 ~~71-396~~ Every person holding a license ~~or registration~~
 24 issued by the department under the ~~Nebraska~~ Cosmetology,
 25 Electrology, Esthetics, Nail Technology, and Body Art Practice

1 Act shall display it in a conspicuous place in his or her
2 principal place of employment, and every cosmetology establishment,
3 ~~electrology establishment,~~ and body art facility shall so display
4 the then current licenses and registrations of all practitioners
5 there employed.

6 Sec. 331. Section 71-398, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 ~~71-398~~ Registration shall be required before any person
9 may act as a guest artist, guest body artist, cosmetician, student,
10 apprentice, or student instructor, or temporary practitioner, and
11 no person shall assume any title indicative of any of such areas
12 of activity without first being registered or licensed by the
13 department under the Nebraska Cosmetology, Electrology, Esthetics,
14 Nail Technology, and Body Art Practice Act. A license as a
15 temporary practitioner shall be required before any person may act
16 as a temporary practitioner, and no person shall assume any title
17 indicative of being a temporary practitioner without first being so
18 licensed by the department under the act.

19 Sec. 332. Section 71-399, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-399~~ In order to become registered by the department,
22 an individual shall make complete and proper making application,
23 including the appropriate fee, to the department and for
24 registration or a temporary license shall meet, and present to the
25 department evidence of meeting, the requirements for the specific

1 type of registration or license applied for.

2 Sec. 333. Section 71-3,100, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 ~~71-3,100~~ Applicants for registration as guest artists
5 ~~or guest body artists~~ shall show evidence of licensure in
6 another jurisdiction or other evidence as directed by the ~~board~~
7 department sufficient to demonstrate that they possess education or
8 experience of benefit to licensed or registered practitioners and
9 are under the sponsorship of a licensed cosmetology establishment
10 or cosmetologist for guest artists or a licensed ~~body art facility~~
11 ~~or person licensed to practice body art for guest body artists.~~
12 esthetician for quest artists only performing esthetics.

13 Sec. 334. Section 71-3,101, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-3,101~~ An applicant for registration as a cosmetician
16 shall show evidence that he or she is or intends to become
17 employed as a cosmetician and has received instruction in the
18 chemical properties of, and potential reactions to, the cosmetics
19 he or she intends to apply from his or her employers or from the
20 manufacturers or distributors of the cosmetic products and is aware
21 of actions to take in the event of such a reaction.

22 Sec. 335. Section 71-3,104, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-3,104~~ An applicant for ~~registration~~ licensure as
25 a temporary practitioner shall show evidence that his or her

1 completed application for regular licensure has been accepted by
2 the department, that he or she has not failed any portion of the
3 licensure examination, and that he or she has been accepted for
4 work in a licensed cosmetology establishment under the supervision
5 of a licensed practitioner. An individual registered as a temporary
6 practitioner on December 1, 2008, shall be deemed to be licensed
7 as a temporary practitioner under the Cosmetology, Electrology,
8 Esthetics, Nail Technology, and Body Art Practice Act on such date.
9 The temporary practitioner may continue to practice under such
10 registration as a temporary license until it would have expired
11 under its terms.

12 Sec. 336. Section 71-3,105, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-3,105 (1) Registration and temporary licensure shall
15 be granted for a set period of time and cannot be renewed.

16 (2) Registration as a guest artist ~~or guest body artist~~
17 shall expire two years following the initial date of issuance.

18 (3) Registration as a cosmetician shall expire two years
19 following the initial date of issuance.

20 (4) Registration as a student, apprentice, or student
21 instructor shall expire upon successful completion of the
22 licensing examination or termination of enrollment in a school
23 of cosmetology, a school of esthetics, or an apprentice salon.
24 Registration

25 (5) Licensure as a temporary practitioner shall expire

1 ~~six~~ eight weeks following the ~~written examination~~ date of issuance
2 or upon receipt of examination results, whichever occurs first,
3 except that the ~~registration~~ license of a temporary practitioner
4 who fails to take the first ~~regularly~~ scheduled examination shall
5 expire immediately ~~after the beginning of the examination~~ unless
6 the ~~board~~ department finds that the temporary practitioner was
7 unable to attend the examination due to an emergency or other valid
8 circumstances, in which case the ~~board~~ department may extend the
9 ~~registration~~ until ~~six~~ weeks after the date of the next ~~regularly~~
10 ~~scheduled written examination~~ or upon license an additional eight
11 weeks or until receipt of the examination results, whichever occurs
12 first. No ~~registration~~ license may be extended in such manner more
13 than once.

14 Sec. 337. Section 71-3,106, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-3,106 The Nebraska Cosmetology, Electrology,
17 Esthetics, Nail Technology, and Body Art Practice Act does not
18 apply to or restrict the activities of the following:

19 (1) Any person holding a current license or certificate
20 issued pursuant to ~~Chapter 71~~ the Uniform Credentialing Act
21 when engaged in the usual and customary practice of his or
22 her profession or occupation;

23 (2) Any person engaging solely in earlobe piercing;

24 (3) Any person when engaged in domestic or charitable
25 administration;

1 (4) Any person performing any of the practices of
2 cosmetology or nail technology solely for theatrical presentations
3 or other entertainment functions;

4 (5) Any person practicing cosmetology, electrology,
5 esthetics, or nail technology within the confines of a hospital,
6 nursing home, massage therapy establishment, funeral establishment,
7 or other similar establishment or facility licensed or otherwise
8 regulated by the department, except that no unlicensed or
9 unregistered person may accept compensation for such practice;

10 (6) Any person providing services during a bona fide
11 emergency;

12 (7) Any retail or wholesale establishment or any person
13 engaged in the sale of cosmetics, nail technology products, or
14 other beauty products when the products are applied by the customer
15 or when the application of the products is in direct connection
16 with the sale or attempted sale of such products at retail;

17 (8) Any person when engaged in nonvocational training;

18 (9) A person demonstrating on behalf of a manufacturer
19 or distributor any cosmetology, nail technology, electrolysis, or
20 body art equipment or supplies if such demonstration is performed
21 without charge;

22 (10) Any person or licensee engaged in the practice or
23 teaching of manicuring; and

24 (11) Any person or licensee engaged in the practice of
25 airbrush tanning or temporary, nonpermanent airbrush tattooing.

1 Sec. 338. Section 71-3,106.01, Revised Statutes
2 Cumulative Supplement, 2006, is amended to read:

3 ~~71-3,106.01~~ All epilators used in an electrology
4 ~~establishment~~ by an electrologist shall be approved by the federal
5 Food and Drug Administration.

6 Sec. 339. Section 71-3,117, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-3,117~~ The following classes of persons shall have
9 a limited exemption from the continuing competency requirements
10 established by the board pursuant to section ~~71-377~~.

11 ~~(1)~~ Any licensee submitting proof that he or she was
12 suffering from a serious or disabling illness or disability that
13 prevented him or her from completing the continuing competency
14 requirements shall be exempt for the biennium if, by the renewal
15 date, he or she is able to practice effectively and to attend
16 continuing competency activities. Any licensee who remains unable
17 to practice effectively at his or her regularly scheduled renewal
18 date shall be placed on inactive status. A physician's statement
19 shall be submitted in support of any request for a continuing
20 competency exemption based on an illness or disability.

21 ~~(2)~~ Any licensee submitting proof of service in the
22 regular armed forces of the United States during any part of the
23 immediately preceding biennium shall be exempt for that biennium.

24 ~~(3)~~ Any person receiving an initial license in Nebraska
25 during the second year of the biennium shall be exempt from the

1 continuing competency requirement for that biennium only;

2 ~~(4)~~ Any licensee submitting proof that he or she has not
3 lived in Nebraska at any time during the six months immediately
4 preceding the date of license renewal and who has not worked in
5 Nebraska at any time during such period shall be exempt for that
6 biennium and shall be placed on inactive status;

7 ~~(5)~~ The department, with the recommendation of the
8 board, may waive continuing competency requirements, in part or
9 in total, for any two-year licensing period when a licensee
10 submits documentation that circumstances beyond his or her control
11 prevented completion of such requirements as provided in section
12 46 of this act. In addition to circumstances determined by the
13 department to be beyond the licensee's control pursuant to such
14 section, the following exemptions shall apply:

15 (1) An instructor who meets the continuing competency
16 requirements for the instructor's license shall be exempt from
17 meeting the continuing competency requirements for his or her
18 cosmetologist license for that biennium;

19 ~~(6)~~ (2) An electrology instructor who meets the
20 continuing competency requirements for the electrology instructor's
21 license shall be exempt from meeting the continuing competency
22 requirements for his or her electrologist license for that
23 biennium; and

24 ~~(7)~~ (3) An esthetics instructor who meets the continuing
25 education requirements for the esthetics instructor's license shall

1 be exempt from meeting the continuing education requirements for
2 his or her esthetician license for that biennium.

3 Sec. 340. Section 71-3,119, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-3,119~~ No person shall operate or profess or attempt
6 to operate a cosmetology establishment unless such establishment
7 is licensed by the department under the ~~Nebraska~~ Cosmetology,
8 Electrology, Esthetics, Nail Technology, and Body Art Practice Act.
9 The department shall not issue or renew a license for a cosmetology
10 establishment until all requirements of the ~~Nebraska Cosmetology~~
11 ~~Act~~ act have been complied with. No person shall engage in any
12 of the practices of cosmetology in any location or premises other
13 than a licensed cosmetology establishment except as specifically
14 permitted in the ~~Nebraska Cosmetology Act.~~ act.

15 Sec. 341. Section 71-3,119.01, Reissue Revised Statutes
16 of Nebraska, is amended to read:

17 ~~71-3,119.01~~ A licensed cosmetology establishment is not
18 required to be licensed as a nail technology salon to provide nail
19 technology services by either a licensed cosmetologist or by a
20 licensed nail technologist.

21 Sec. 342. Section 71-3,119.02, Revised Statutes
22 Cumulative Supplement, 2006, is amended to read:

23 ~~71-3,119.02~~ (1) ~~On or after April 1, 2005,~~ No person
24 shall establish or operate a body art facility in this state
25 unless such facility is licensed by the department under the

1 ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology, and
2 Body Art Practice Act. The department shall not issue or renew a
3 license for a body art facility until all applicable requirements
4 of the ~~Nebraska Cosmetology Act~~ act have been complied with and
5 the facility has been inspected by the department. No person
6 shall engage in any of the practices of body art in any location
7 or premises other than a licensed body art facility except as
8 specifically permitted in the ~~Nebraska Cosmetology Act~~, act. The
9 department shall issue a license to operate a body art facility to
10 each qualified applicant.

11 (2) ~~Each body art facility license shall expire and be~~
12 ~~subject to renewal on March 31 of each odd-numbered year.~~ The
13 procedure for renewing a body art facility license shall be in
14 accordance with section ~~71-110.01~~, 43 of this act, except that in
15 addition to all other requirements, no body art facility license
16 may be renewed unless the facility has attained a rating of
17 satisfactory on its most recent operation inspection. The license
18 of any facility not attaining such rating shall be placed on
19 inactive status and shall not be open to the public until all
20 deficiencies have been corrected.

21 (3) The license of a body art facility that has been
22 revoked for any reason shall not be reinstated. An original
23 application for licensure shall be submitted and approved before
24 such facility can reopen for business.

25 (4) Each body art facility license shall be in effect

1 solely for the owner or owners and premises named thereon and
2 shall ~~lapse~~ expire automatically upon any change of ownership or
3 location. An original application for licensure shall be submitted
4 and approved before such facility may reopen for business.

5 Sec. 343. Section 71-3,119.03, Revised Statutes
6 Cumulative Supplement, 2006, is amended to read:

7 ~~71-3,119.03~~ (1) In order to maintain a license in good
8 standing, each body art facility or the owner of such facility or
9 his or her agent shall:

10 (a) At all times comply with all applicable provisions of
11 the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology,
12 and Body Art Practice Act and all rules and regulations adopted and
13 promulgated under such act;

14 (b) Notify the department at least thirty days prior
15 to any change of ownership, name, or address, and within one
16 week after a facility is permanently closed, except in emergency
17 circumstances as determined by the department;

18 (c) Permit any duly authorized agent of the department
19 to conduct an operation inspection or investigation at any time
20 during normal operating hours, without prior notice, and the owner
21 and manager shall assist the inspector by providing access to all
22 areas, personnel, and records requested by the inspector; and

23 (d) Display in a conspicuous place near the place where
24 body art is performed the following records:

25 (i) The then current license to operate the body art

1 facility;

2 (ii) The then current license of each person performing
3 body art; and

4 (iii) The inspection report from the most recent
5 operation inspection.

6 (2) The owner of each body art facility shall have
7 full responsibility for ensuring that the facility is operated
8 in compliance with all applicable laws, rules, and regulations
9 and shall be liable for any and all violations occurring in the
10 facility.

11 Sec. 344. Section 71-3,120, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-3,120~~ For the purposes of sections ~~71-3,120~~ ~~to~~
14 ~~71-3,128,~~ 345 to 352 of this act, salon means cosmetology salon
15 and esthetics salon.

16 Sec. 345. Section 71-3,121, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-3,121~~ In order to be licensed as a salon by the
19 department, an applicant shall meet, and present to the department
20 evidence of meeting, the following requirements:

21 (1) The proposed salon shall be a fixed, permanent
22 structure or part of one;

23 (2) The proposed salon shall be physically separated
24 from all other business or residential activities except barbering,
25 manicuring, pedicuring, and retail sales;

1 (3) The separation required in subdivision (2) of this
2 section shall be by fixed walls or by partitions not less than six
3 feet high;

4 (4) Areas of the salon used for barbering, manicuring, or
5 pedicuring shall be clearly identified as such to the public by a
6 sign and shall be visually distinct from other areas of the salon;

7 (5) All areas of the salon, including those used for
8 manicures, pedicures, or retail sales, shall comply with the
9 sanitary requirements of the ~~Nebraska~~ Cosmetology, Electrology,
10 Esthetics, Nail Technology, and Body Art Practice Act;

11 (6) A salon located in a residence shall be entirely
12 distinct and separate from any living quarters, except that there
13 may be one connecting door to the living portion of the dwelling as
14 an access entrance to the salon for the owner or operator, but such
15 entrance shall not be for the use of the general public;

16 (7) The entrance into the proposed salon used by the
17 general public shall lead directly from the outside to the salon,
18 except that a salon located in a commercial building may have
19 its entrance open from a public area such as a foyer, hallway,
20 mall, concourse, or retail sales floor. Any salon in existence and
21 licensed on August 30, 1987, shall not be required to comply with
22 this subdivision;

23 (8) The proposed salon shall have at least one hundred
24 fifty square feet of floor space. If more than one practitioner
25 is to be employed in the salon at the same time, the salon shall

1 contain an additional space of at least fifty square feet for each
2 additional practitioner, except that a salon employing a licensee
3 exclusively to perform home services need not provide additional
4 space for such employee;

5 (9) The proposed salon shall include toilet facilities
6 unless the salon is located in a commercial building in which
7 public toilet facilities are available that open directly off of a
8 public area; and

9 (10) The proposed salon shall meet all state or local
10 building code and fire code requirements.

11 Sec. 346. Section 71-3,122, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-3,122~~ Any person seeking a license to operate a salon
14 shall submit an application to the department. The application
15 shall be on such forms and shall include such information as the
16 department and the board may require. A a completed application
17 shall be received by the department at least thirty days before
18 construction or remodeling of the building proposed for use is
19 scheduled to begin. If no construction or remodeling is planned,
20 the application shall be submitted at least thirty days before
21 the proposed opening of the salon for operation. Along with the
22 application the applicant shall submit:

23 (1) A detailed floor plan or blueprint of the proposed
24 salon sufficient to demonstrate compliance with the requirements of
25 section ~~71-3,121~~, 345 of this act; and

1 (2) ~~A statement confirming application for~~ Evidence of
2 minimal property damage, bodily injury, and liability insurance
3 coverage for the proposed salon.

4 Sec. 347. Section 71-3,123, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-3,123~~ Each application for a license to operate
7 a salon shall be reviewed by the department for compliance
8 with the requirements of the ~~Nebraska~~ Cosmetology, Electrology,
9 Esthetics, Nail Technology, and Body Art Practice Act. In the
10 event an application is denied, the applicant shall be informed
11 in writing of the grounds for denial, and such denial shall not
12 prejudice future applications by the applicant. In the event an
13 application is approved, the department shall issue the applicant
14 a certificate of consideration to operate a salon pending an
15 operation inspection. The department shall conduct an operation
16 inspection of each salon issued a certificate of consideration
17 within six months of the issuance of such certificate. Salons
18 passing the inspection shall be issued a permanent license.
19 Salons failing the inspection shall submit within fifteen days
20 evidence of corrective action taken to improve those aspects of
21 operation found deficient. If evidence is not submitted within
22 fifteen days or if after a second inspection the salon does not
23 receive a satisfactory rating, it shall immediately relinquish its
24 certificate of consideration and cease operation.

25 Sec. 348. Section 71-3,124, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-3,124~~ In order to maintain its license in good
3 standing, each salon shall operate in accordance with the following
4 requirements:

5 (1) The salon shall at all times comply with all
6 applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology,
7 Esthetics, Nail Technology, and Body Art Practice Act and all rules
8 and regulations adopted and promulgated under such act;

9 (2) The salon owner or his or her agent shall notify the
10 department at least thirty days prior to any change of ownership,
11 name, or address, and within one week if a salon is permanently
12 closed, except in emergency circumstances as determined by the
13 department;

14 (3) No salon shall permit any unlicensed or unregistered
15 person to perform any of the practices of cosmetology within its
16 confines or employment;

17 (4) The salon shall display a name upon, over, or near
18 the entrance door distinguishing it as a salon;

19 (5) The salon shall permit any duly authorized agent of
20 the department to conduct an operation inspection or investigation
21 at any time during the normal operating hours of the salon, without
22 prior notice, and the owner and manager shall assist the inspector
23 by providing access to all areas of the salon, all personnel, and
24 all records requested by the inspector;

25 ~~(6) The salon shall be open to the public for business at~~

1 least four hundred hours during each full calendar year for which
2 the salon is licensed. Appointment records, employee time sheets,
3 or similar records shall constitute evidence of being open;

4 ~~(7)~~ (6) The salon shall display in a conspicuous place
5 the following records:

6 (a) The current license or certificate of consideration
7 to operate a salon;

8 (b) The current licenses or registrations of all persons
9 employed by or working in the salon; and

10 (c) The rating sheet from the most recent operation
11 inspection;

12 ~~(8)~~ (7) At no time shall a salon employ more employees
13 than permitted by the square footage requirements of the Nebraska
14 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
15 Practice Act; and

16 ~~(9)~~ (8) The salon shall not knowingly permit its
17 employees or clients to use, consume, serve, or in any manner
18 possess or distribute intoxicating beverages or controlled
19 substances upon its premises during the hours the salon is open
20 to the public.

21 Sec. 349. Section 71-3,125, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-3,125 Each salon license issued under the Nebraska
24 Cosmetology Act shall expire and be subject to renewal on September
25 30 of each odd-numbered year. The procedure for renewing a salon

1 license shall be in accordance with section ~~71-110.01~~, 43 of this
2 act, except that in addition to all other requirements, ~~no salon~~
3 license may be renewed unless the salon has attained a rating of
4 ~~satisfactory on its most recent operation inspection~~. Any salon
5 not able to meet such requirement shall have its license placed
6 on inactive status until all deficiencies of operation have been
7 corrected, and the salon shall not be open to the public during
8 ~~the time its license is inactive~~. the salon shall submit evidence
9 of minimal property damage, bodily injury, and liability insurance
10 coverage for the salon.

11 Sec. 350. Section 71-3,126, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-3,126~~ The license of a salon that has been revoked
14 or expired for any reason shall not be reinstated. An original
15 application for licensure shall be submitted and approved before
16 such salon may reopen for business.

17 Sec. 351. Section 71-3,127, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-3,127~~ Each salon license issued shall be in effect
20 solely for the owner or owners and premises named thereon and
21 shall ~~lapse~~ expire automatically upon any change of ownership or
22 location. An original application for licensure shall be submitted
23 and approved before such salon may reopen for business.

24 Sec. 352. Section 71-3,128, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-3,128~~ The owner of each salon shall have full
2 responsibility for ensuring that the salon is operated in
3 compliance with all applicable laws, rules, and regulations and
4 shall be liable for any and all violations occurring in the salon.

5 Sec. 353. Section 71-3,129, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-3,129~~ In order to be licensed as a cosmetic
8 establishment by the department, an applicant shall meet, and
9 present to the department evidence of meeting, the following
10 requirements:

11 (1) The proposed cosmetic establishment shall be a fixed
12 permanent structure or part of one;

13 (2) The proposed cosmetic establishment need not consist
14 of a separate room or rooms, but may be a counter or other clearly
15 identifiable portion of a room or floor;

16 (3) The proposed cosmetic establishment shall have, or
17 have convenient access to, handwashing facilities; and

18 (4) The proposed cosmetic establishment, if located in
19 a private dwelling, shall be located in a room or rooms separate
20 from the living quarters and having a private entrance. Such room
21 or rooms shall not be used for any residential purpose during the
22 hours the cosmetic establishment is being used, and all doors and
23 windows connecting to residential quarters shall be closed at such
24 times.

25 Sec. 354. Section 71-3,130, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-3,130~~ (1) Any person seeking a license to operate
3 a cosmetic establishment shall submit ~~an application to the~~
4 ~~department.~~ The application shall be on such forms and shall
5 include such information as the department and the board may
6 require. A a completed application shall be received by the
7 ~~department~~ at least thirty days before the proposed opening of the
8 cosmetic establishment for operation. Along with the application
9 the applicant shall submit:

10 ~~(1)~~ (a) A floor plan or blueprint sufficient to identify
11 the location of the proposed cosmetic establishment within any
12 larger structure and the location of handwashing facilities; and

13 ~~(2)~~ (b) The names of all persons registered or proposed
14 to be registered as cosmeticians to be employed in the cosmetic
15 establishment.

16 (2) In the event that more than one counter or area
17 within a larger commercial establishment will be used as a cosmetic
18 establishment, only one license is required for all such counters
19 or areas if all are identified on the floor plan or blueprint
20 accompanying the application.

21 (3) Each application shall be reviewed by the department
22 for compliance with the requirements of the Nebraska Cosmetology,
23 Electrology, Esthetics, Nail Technology, and Body Art Practice Act.
24 In the event an application is denied, the applicant shall be
25 informed in writing of the grounds for denial and such denial shall

1 not prejudice future applications by the applicant. In the event an
2 application is approved, the department shall issue the applicant
3 a certificate of consideration to operate a cosmetic establishment
4 pending an operation inspection. The department shall conduct
5 an operation inspection of each cosmetic establishment issued a
6 certificate of consideration within six months of the issuance of
7 such certificate. Cosmetic establishments passing the inspection
8 shall be issued a permanent license. Cosmetic establishments
9 failing the inspection shall submit, within fifteen days, evidence
10 of corrective action taken to improve those aspects of operation
11 found deficient. If evidence is not submitted within fifteen days
12 or if after a second inspection the cosmetic establishment does not
13 receive a satisfactory rating, it shall immediately relinquish its
14 certificate of consideration and cease operation.

15 Sec. 355. Section 71-3,131, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-3,131~~ In order to maintain its license in good
18 standing, each cosmetic establishment shall operate in accordance
19 with the following requirements:

20 (1) The cosmetic establishment shall at all times
21 comply with all applicable provisions of the ~~Nebraska~~ Cosmetology,
22 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
23 and all rules and regulations adopted and promulgated under such
24 act;

25 (2) The owner of the cosmetic establishment or his or her

1 agent shall notify the department at least thirty days prior to any
2 change of ownership, name, or address, and within one week after a
3 cosmetic establishment is permanently closed, except in emergency
4 circumstances as determined by the department;

5 (3) No cosmetic establishment shall permit anyone
6 other than a cosmetician, cosmetologist, or esthetician to apply
7 cosmetics to members of the general public upon its premises;

8 (4) The cosmetic establishment shall display a sign at
9 each counter or area used for such purposes indicating that it
10 is a licensed cosmetic establishment and that all persons applying
11 cosmetics are registered cosmeticians or licensed cosmetologists or
12 estheticians;

13 (5) The cosmetic establishment shall permit any duly
14 authorized agent of the department to conduct an operation
15 inspection or investigation at any time during normal operating
16 hours, without prior notice, and the owner and manager shall assist
17 the inspector by providing access to all areas, personnel, and
18 records requested by the inspector; and

19 (6) The cosmetic establishment shall display in a
20 conspicuous place near the place where cosmetics are applied the
21 following records:

22 (a) The current license or certificate of consideration
23 to operate a cosmetic establishment;

24 (b) The current licenses or registrations of all persons
25 applying cosmetics; and

1 (c) The rating sheet from the most recent operation
2 inspection.

3 Sec. 356. Section 71-3,133, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-3,133~~ The license of a cosmetic establishment that has
6 been revoked or expired for any reason may not be reinstated. An
7 original application for licensure shall be submitted and approved
8 before such cosmetic establishment may reopen for business.

9 Sec. 357. Section 71-3,134, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-3,134~~ Each cosmetic establishment license issued shall
12 be in effect solely for the owner or owners and premises named
13 thereon and shall ~~lapse~~ expire automatically upon any change of
14 ownership or location. An original application for licensure shall
15 be submitted and approved before such cosmetic establishment may
16 reopen for business. Nothing in sections ~~71-3,129 to 71-3,134~~ 353
17 to 357 of this act shall be construed to prevent the creation,
18 alteration, removal, or movement of specific counters or areas
19 within a commercial enterprise holding a license as a cosmetic
20 establishment.

21 Sec. 358. Section 71-3,135, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-3,135~~ The owner of each cosmetic establishment
24 shall have full responsibility for ensuring that the cosmetic
25 establishment is operated in compliance with all applicable laws,

1 rules, and regulations and shall be liable for any and all
2 violations occurring in the cosmetic establishment.

3 Sec. 359. Section 71-3,136, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-3,136~~ In order to be licensed as a school of
6 cosmetology by the department, an applicant shall meet and present
7 to the department evidence of meeting the following requirements:

8 (1) The proposed school shall be a fixed permanent
9 structure or part of one;

10 (2) The proposed school shall have a contracted
11 enrollment of at least fifteen full-time students;

12 (3) The proposed school shall contain at least three
13 thousand five hundred square feet of floor space and facilities,
14 staff, apparatus, and equipment appropriate to its projected
15 enrollment in accordance with the standards established by the
16 board and the department by rule and regulation; and

17 (4) The proposed school shall not have the same entrance
18 as or direct access to a cosmetology salon, esthetics salon, or
19 nail technology salon.

20 A school of cosmetology is not required to be licensed
21 as a school of esthetics in order to provide an esthetics training
22 program or as a school of nail technology in order to provide a
23 nail technology training program.

24 Sec. 360. Section 71-3,137, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 ~~71-3,137~~ Any person seeking a license to operate a school
2 of cosmetology or school of esthetics shall submit ~~an application~~
3 ~~to the department. The application shall be on such forms and~~
4 ~~shall include such information as the department and the board~~
5 ~~may require. A a completed application shall be received by the~~
6 ~~department~~ at least thirty days before construction or remodeling
7 of the building proposed for use is scheduled to begin. If no
8 construction or remodeling is planned, the application shall be
9 received at least thirty days before the proposed opening of the
10 school. ~~If the applicant is an individual, the application shall~~
11 ~~include the applicant's social security number.~~

12 Sec. 361. Section 71-3,138, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-3,138~~ Along with the application the applicant for a
15 license to operate a school of cosmetology or school of esthetics
16 shall submit:

17 (1) A detailed floor plan or blueprint of the proposed
18 school building sufficient to show compliance with the relevant
19 rules and regulations;

20 (2) ~~A statement confirming application for~~ Evidence of
21 minimal property damage, personal injury, and liability insurance
22 coverage for the proposed school;

23 (3) A copy of the curriculum to be taught for all
24 courses;

25 (4) A copy of the school rules and the student contract;

1 (5) A list of the names and credentials of all licensees
2 to be employed by the school and the name and qualifications of the
3 school manager;

4 (6) Complete student entrance notifications and contracts
5 for all persons proposed as students or student instructors, which
6 shall be submitted fifteen days prior to opening;

7 (7) A completed cosmetology education or esthetics
8 education evaluation scale, as applicable; and

9 (8) A schedule of proposed hours of operation and class
10 and course scheduling. + and

11 ~~(9) Evidence of a surety bond issued for at least one~~
12 ~~year in the amount of five thousand dollars for each twenty~~
13 ~~students or fraction thereof enrolled, running in favor of the~~
14 ~~State of Nebraska with surety by a corporate bonding company~~
15 ~~authorized to do business in this state and conditioned that the~~
16 ~~school shall remain open during the period for which the bond is~~
17 ~~in effect.~~

18 Sec. 362. Section 71-3,138.02, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 ~~71-3,138.02~~ In order to be licensed as a school of
21 esthetics by the department, an applicant shall meet and present to
22 the department evidence of meeting the following requirements:

23 (1) The proposed school shall be a fixed permanent
24 structure or part of one;

25 (2) The proposed school shall have a contracted

1 enrollment of at least four but not more than six students for each
2 licensed esthetics instructor on the staff of the proposed school;

3 (3) The proposed school shall contain at least one
4 thousand square feet of floor space and facilities, staff,
5 apparatus, and equipment appropriate to its projected enrollment
6 in accordance with the standards established by ~~the board and the~~
7 ~~department~~ by rule and regulation; and

8 (4) The proposed school shall not have the same entrance
9 as or direct access to a cosmetology salon, an esthetics salon, or
10 a nail technology salon.

11 Sec. 363. Section 71-3,139, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 ~~71-3,139~~ Each application for a license to operate a
14 school of cosmetology or school of esthetics shall be reviewed
15 by the department for compliance with the requirements of the
16 Nebraska Cosmetology, Electrology, Esthetics, Nail Technology, and
17 Body Art Practice Act. If an application is denied, the applicant
18 shall be informed in writing of the grounds for denial and such
19 denial shall not prejudice future applications by the applicant.
20 If an application is accepted, ~~the board and the~~ department
21 shall immediately conduct an accreditation inspection of the
22 proposed school. A school passing the inspection shall be issued a
23 license and may begin operation as soon as the inspection results
24 are received. If the proposed school fails the inspection, the
25 applicant shall submit, within fifteen days, evidence of corrective

1 action taken to improve those aspects of operation found deficient.
2 If, after a second inspection to be conducted within thirty days
3 of receipt of evidence, the school does not receive a satisfactory
4 rating, or if evidence is not received within fifteen days, the
5 application may be denied.

6 Sec. 364. Section 71-3,140, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 ~~71-3,140~~ In order to maintain its license in good
9 standing, each school of cosmetology or school of esthetics shall
10 operate in accordance with the following requirements:

11 (1) The school shall at all times comply with all
12 applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology,
13 Esthetics, Nail Technology, and Body Art Practice Act and all rules
14 and regulations adopted and promulgated under such act;

15 (2) The school owner or owners or the authorized agent
16 thereof shall notify the department at least thirty days prior to
17 any change of ownership, name, or address, and at least sixty days
18 prior to closure, except in emergency circumstances as determined
19 by the department;

20 (3) No school shall permit anyone other than a student,
21 student instructor, instructor, or guest artist to perform any of
22 the practices of cosmetology or esthetics within its confines or
23 employ, except that such restriction shall not prevent a school
24 from inviting guest teachers who are not licensed or registered to
25 provide lectures to students or student instructors if the guest

1 lecturer does not perform any of the practices of cosmetology or
2 esthetics;

3 (4) The school shall display a name upon or near the
4 entrance door designating it as a school of cosmetology or a school
5 of esthetics;

6 (5) The school shall display in a conspicuous place
7 within the clinic area a sign reading: All services in this school
8 are performed by students who are training in cosmetology or
9 esthetics, as applicable. A notice to such effect shall also appear
10 in all advertising conducted by the school for its clinic services;

11 (6) The school shall permit any duly authorized agent of
12 the department to conduct an operation inspection or investigation
13 at any time during the normal operating hours of the school without
14 prior notice, and the owner or manager shall assist the inspector
15 by providing access to all areas of the school, all personnel, and
16 all records requested by the inspector;

17 (7) The school shall display in a conspicuous place the
18 following records:

19 (a) The current license to operate a school of
20 cosmetology or school of esthetics;

21 (b) The current licenses or registrations of all persons,
22 except students, employed by or working in the school; and

23 (c) The rating sheet from the most recent accreditation
24 inspection;

25 (8) At no time shall a school enroll more students than

1 permitted by the ~~Nebraska Cosmetology Act~~ act or the rules and
2 regulations adopted and promulgated under ~~such~~ the act;

3 (9) The school shall not knowingly permit its students,
4 employees, or clients to use, consume, serve, or in any other
5 manner possess or distribute intoxicating beverages or controlled
6 substances upon its premises; ~~during the hours the school is in~~
7 ~~operation;~~

8 ~~(10)~~ Food shall not be consumed in any area where
9 cosmetology or esthetics services are being taught or performed or
10 stored in the same area where chemical supplies or used equipment
11 are stored;

12 ~~(11)~~ (10) No instructor or student instructor shall
13 perform, and no school shall permit such person to perform, any of
14 the practices of cosmetology or esthetics on the public in a school
15 of cosmetology or school of esthetics other than that part of the
16 practical work which pertains directly to the teaching of practical
17 subjects to students or student instructors and in no instance
18 shall complete cosmetology or esthetics services be provided for
19 a client unless done in a demonstration class of theoretical or
20 practical studies;

21 ~~(12)~~ (11) The school shall maintain space, staff,
22 library, teaching apparatus, and equipment as established by
23 rules and regulations adopted and promulgated under the ~~Nebraska~~
24 ~~Cosmetology Act;~~ act;

25 ~~(13)~~ (12) The school shall keep a daily record of the

1 attendance and clinical performance of each student and student
2 instructor;

3 ~~(14)~~ (13) The school shall maintain regular class and
4 instructor hours and shall require the minimum curriculum;

5 ~~(15)~~ (14) The school shall establish and maintain
6 criteria and standards for student grading, evaluation, and
7 performance and shall award a certificate or diploma to a student
8 only upon completing a full course of study in compliance with such
9 standards, except that no student shall receive such certificate or
10 diploma until he or she has satisfied or made an agreement with
11 the school to satisfy all outstanding financial obligations to the
12 school;

13 ~~(16)~~ (15) The school shall maintain on file the
14 ~~registrations~~ enrollment of each student;

15 ~~(17)~~ (16) The school shall ~~submit a monthly~~ maintain a
16 ~~report to the department, on forms established by the department,~~
17 indicating the students and student instructors enrolled, the
18 hours and credits earned, the instructors employed, the hours of
19 operation, and such other pertinent information as ~~the board and~~
20 ~~the department shall require.~~ required by the department. No hours
21 or credits shall be allowed for any student unless such student
22 is duly registered and the hours and credits are reported by the
23 school; and

24 ~~(18)~~ (17) The school shall print and provide to each
25 student a copy of the school rules, which shall not be inconsistent

1 with the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail
2 Technology, and Body Art Practice Act, the Uniform Credentialing
3 Act, or ~~with~~ the rules and regulations adopted and promulgated
4 under ~~such~~ either act and which shall include policies of the
5 school with respect to tuition, reimbursement, conduct, attendance,
6 grading, earning of hours and credits, demerits, penalties,
7 dismissal, graduation requirements, dress, and other information
8 sufficient to advise the student of the standards he or she will be
9 required to maintain. The ~~board~~ department may review any school's
10 rules to determine their consistency with the intent and content of
11 the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail Technology,
12 and Body Art Practice Act and ~~its~~ the rules and regulations and may
13 overturn any school rules found not to be in accord.

14 Sec. 365. Section 71-3,102, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-3,102 (1) ~~An applicant for registration~~ In order to
17 maintain a school or salon license in good standing, each school or
18 salon shall operate in accordance with the following:

19 (1) Every person accepted for enrollment as a standard
20 student or apprentice shall show evidence that he or she attained
21 the age of seventeen years on or before the date of his or her
22 enrollment in a school of cosmetology, a school of esthetics,
23 or an apprentice salon, has completed the equivalent of a high
24 school education, has been accepted for enrollment at a school of
25 cosmetology, a school of esthetics, or an apprentice salon, and

1 has not undertaken any training in cosmetology or esthetics without
2 being ~~registered~~ enrolled as a student or apprentice; -

3 ~~(2) An applicant for registration~~ (2) (a) Every person
4 accepted for enrollment as a special study student or apprentice
5 shall show evidence that he or she:

6 ~~(a) (i)~~ (i) Has attained the age of seventeen years on or
7 before the date of enrollment in a school of cosmetology, a school
8 of esthetics, or an apprentice salon;

9 ~~(b) (ii)~~ (ii) Has completed the tenth grade;

10 ~~(c) (iii)~~ (iii) Has been accepted for enrollment at a school of
11 cosmetology, a school of esthetics, or an apprentice salon; and

12 ~~(d) (iv)~~ (iv) Is actively continuing his or her formal
13 high school education on a full-time basis as determined by
14 the department.

15 (b) An applicant for registration enrollment as a special
16 study student or apprentice shall not have undertaken any training
17 in cosmetology or esthetics without being ~~registered~~ enrolled as a
18 student or apprentice.

19 (c) Special study students shall be limited to attending
20 a school of cosmetology, a school of esthetics, or an apprentice
21 salon for no more than eight hours per week during the school year;

22 -

23 (3) Every person accepted for enrollment as a student
24 instructor shall show evidence of current licensure as a
25 cosmetologist or esthetician in Nebraska and completion of formal

1 education equivalent to a United States high school education; and
2 (4) No school of cosmetology, school of esthetics, or
3 apprentice salon shall accept an individual for enrollment who
4 does not provide evidence of meeting the age and education
5 requirements. Proof of age shall consist of a birth certificate,
6 baptismal certificate, or other equivalent document as determined
7 by the department. Evidence of education shall consist of a
8 high school diploma, general educational development certificate,
9 transcript from a college or university, or equivalent document
10 as determined by the department. ~~No school of cosmetology, school~~
11 ~~of esthetics, or apprentice salon shall accept an individual~~
12 ~~for enrollment who does not provide evidence of meeting the~~
13 ~~age and education requirements for registration. Each school of~~
14 ~~cosmetology, school of esthetics, or apprentice salon shall submit~~
15 ~~a complete registration within five days following the first day~~
16 ~~of courses. No school of cosmetology, school of esthetics, or~~
17 ~~apprentice salon shall continue training an individual for whom the~~
18 ~~establishment has not submitted a complete registration application~~
19 ~~within such five-day period. No school of cosmetology, school of~~
20 ~~esthetics, or apprentice salon shall continue to train or enroll a~~
21 ~~person who has not received his or her registration within thirty~~
22 ~~days of its submission without the permission of the department.~~

23 Sec. 366. Section 71-3,141, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 ~~71-3,141~~ In order to maintain its license in good

1 standing, each school of cosmetology or school of esthetics shall
2 operate in accordance with the following requirements:

3 (1) All persons accepted for enrollment as students shall
4 meet the qualifications established in section ~~71-3,102,~~ 365 of
5 this act;

6 ~~(2) The school shall submit a completed student entrance~~
7 ~~notification, including the student registration fee, on forms~~
8 ~~prescribed by the department, for each person enrolling in the~~
9 ~~school before such person may begin training;~~

10 ~~(3)~~ (2) The school shall, at all times the school is
11 in operation, have at least one instructor in the school for each
12 ~~six~~ twenty students or fraction thereof enrolled in the school,
13 except (a) that freshman and advanced students shall be taught by
14 different instructors in separate classes and (b) as provided in
15 section ~~71-3,138.02,~~ 362 of this act;

16 ~~(4)~~ (3) The school shall not permit any student to
17 render clinical services on members of the public with or without
18 fees until such student has satisfactorily completed the freshman
19 curriculum, except that the board may establish guidelines by which
20 it may approve such practices as part of the freshman curriculum;

21 ~~(5)~~ (4) No school shall pay direct compensation to any of
22 its students. Student instructors may be paid as determined by the
23 school;

24 ~~(6)~~ (5) All students and student instructors shall be
25 under the supervision of an instructor at all times, except that

1 students shall be under the direct supervision of an instructor
2 or student instructor at all times when cosmetology or esthetics
3 services are being taught or performed and student instructors may
4 independently supervise students after successfully completing at
5 least one-half of the required instructor program;

6 ~~(7)~~ (6) Students shall be classified for reporting
7 purposes as follows:

8 (a) A full-time student shall mean one who regularly
9 trains at least eight hours a day during the normal school week,
10 including normal excused absences as defined in the school rules;
11 and

12 (b) A part-time student shall mean any student not
13 classified as a full-time student;

14 ~~(8)~~ (7) Students no longer attending the school shall be
15 classified for reporting purposes as follows:

16 (a) A graduate shall mean a student who has completed his
17 or her hours and credits, has satisfied all school requirements,
18 and has been granted a certificate or diploma by the school;

19 (b) A transfer shall mean a student who has transferred
20 to another school in Nebraska or in another state;

21 (c) A temporary drop shall mean a student who has stopped
22 attending school for a period of less than three months and has
23 given no indication that he or she intends to drop permanently; and

24 (d) A permanent drop shall mean a student who has stopped
25 attending school for a period of three months or more or one who

1 has stopped attending for a shorter time but has informed the
2 school in writing of his or her intention to drop permanently;

3 ~~(9)~~ (8) Once a student has been classified as a permanent
4 drop, the ~~department~~ school shall keep a record of his or her hours
5 and credits for a period of two years from the last date upon which
6 the student attended school; ~~if~~ after two years, the student has
7 not reenrolled in a school of cosmetology or school of esthetics in
8 Nebraska or transferred his or her hours and credits to a school in
9 another state, all hours and credits earned by the student shall be
10 declared void;

11 ~~(10)~~ (9) No student shall be permitted by the school to
12 train or work in a school in any manner for more than ten hours a
13 day; and

14 ~~(11)~~ (10) The school shall not credit a student or
15 student instructor with hours and credits except when such hours
16 and credits were earned in the study or practice of cosmetology
17 or esthetics in accordance with the required curriculum. Hours and
18 credits shall be credited on a daily basis. Once credited, hours
19 or credits cannot be removed or disallowed except by the department
20 upon a finding that the hours or credits have been wrongfully
21 allowed.

22 Sec. 367. Section 71-3,142, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-3,142 Students~~ A student may transfer from one school
25 of cosmetology in Nebraska to another at any time without penalty

1 if all tuition obligations to the school from which the student is
 2 transferring have been honored, ~~upon fulfillment of the following~~
 3 ~~requirements:~~(1) ~~The student shall secure~~ and if the student
 4 secures a letter from the school from which he or she is
 5 transferring stating that the student has not left any unfulfilled
 6 tuition obligations and stating the number of hours and credits
 7 earned by the student at such school, including any hours and
 8 credits the student transferred into that school, and the dates of
 9 attendance of the student at that school. ~~;~~(2) ~~The school to which~~
 10 ~~the student is transferring shall submit a copy of such letter to~~
 11 ~~the department along with a completed student entrance notification~~
 12 ~~and fee. Documents already on file with the department with the~~
 13 ~~original notification need not be resubmitted;~~ and(3) The student
 14 may not begin training at the new school until the ~~requirements~~
 15 ~~of subdivisions (1) and (2) of this section have been met.~~ such
 16 conditions have been fulfilled. The school to which the student
 17 is transferring shall be entitled to receive from the student's
 18 previous school, upon request, credit books and any and all records
 19 pertaining to the student.

20 Sec. 368. Section 71-3,143, Reissue Revised Statutes of
 21 Nebraska, is amended to read:

22 ~~71-3,143~~ Students may transfer into a school of
 23 cosmetology in Nebraska from a school in another state if:

24 (1) The school in the other state meets all requirements
 25 of section ~~71-3,141;~~ 366 of this act; and

1 (2) The student submits to the department evidence that
2 the school from which he or she is transferring was fully
3 accredited by the appropriate body in that state at the time
4 the student attended.

5 ~~In order to be honored in Nebraska, some portion of~~
6 ~~the student's hours shall have been earned within the two years~~
7 ~~immediately prior to the transfer. The board and the department~~
8 ~~shall adopt and promulgate rules and regulations for determining~~
9 ~~the manner in which hours and credits shall be awarded to students~~
10 ~~transferring from such schools.~~

11 Sec. 369. Section 71-3,144, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-3,144~~ Any person holding a current barbering license
14 issued by the appropriate authority in Nebraska shall be entitled
15 to waive one thousand hours upon enrolling in a complete course
16 of cosmetology training in a school of cosmetology. The school
17 shall determine, based upon the knowledge and experience of the
18 student, which one thousand hours of training shall be waived for
19 the student. The school shall determine, based upon the knowledge
20 and experience of the student, how many credits to waive and which
21 credits are to be waived for the student, except that no fewer
22 than five hundred credits and no more than one thousand credits
23 may be waived for any such student. No hours shall be waived for
24 a licensed barber enrolling in an esthetician training course or
25 program.

1 Sec. 370. Section 71-3,146, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-3,146~~ No school of cosmetology shall at any time
4 enroll more than ~~one student instructor~~ two student instructors for
5 each full-time instructor actively working in and employed by the
6 school.

7 Sec. 371. Section 71-3,147, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 ~~71-3,147~~ (1) Each school license issued under the
10 Nebraska Cosmetology Act shall ~~expire and be subject to renewal on~~
11 ~~December 31 of each odd-numbered year.~~ The procedure for renewing
12 a school license shall be in accordance with section ~~71-110.01,~~ 43
13 of this act, except that in addition to all other requirements,
14 the school of cosmetology or school of esthetics shall provide
15 evidence of minimal property damage, bodily injury, and liability
16 insurance coverage and shall receive a satisfactory rating on an
17 accreditation inspection conducted by the ~~board and the department,~~
18 ~~in consultation with the State Department of Education,~~ within the
19 six months immediately prior to the date of license renewal.

20 (2) Any school of cosmetology or school of esthetics
21 which has current accreditation from a national accrediting
22 organization approved by the board shall be considered to satisfy
23 the accreditation requirements outlined in this section, except
24 that successful completion of an operation inspection shall be
25 required. Each school of cosmetology or school of esthetics,

1 whether or not it is nationally accredited, shall satisfy all
2 curriculum and sanitation requirements outlined in the ~~Nebraska~~
3 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
4 Practice Act to maintain its license.

5 (3) Any school not able to meet the requirements for
6 license renewal shall have its license placed on inactive status
7 until all deficiencies have been corrected, and the school shall
8 not operate in any manner during the time its license is inactive.
9 If the deficiencies are not corrected within six months of the date
10 of license renewal, the license may be revoked unless the ~~board~~
11 department approves an extension of the time limit. The license of
12 a school that has been revoked or ~~lapsed~~ expired for any reason
13 shall not be reinstated. An original application for licensure
14 shall be submitted and approved before such school may reopen.

15 Sec. 372. Section 71-3,148, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-3,148~~ Each school license issued shall be in effect
18 solely for the owner or owners and premises named thereon and shall
19 ~~lapse~~ expire automatically upon any change of ownership or change
20 in the county of location. An original application for licensure
21 shall be submitted and approved before such school may reopen,
22 except that a school moving to a new location within the same
23 county may do so by filing an application as required by the
24 department, paying the required fee, submitting a new floor plan,
25 and passing an operation inspection. Materials shall be received by

1 the department no less than thirty days prior to the move, and all
2 provisions of this section shall be complied with before the school
3 may begin operation at its new location.

4 Sec. 373. Section 71-3,149, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-3,149~~ Any school of cosmetology may apply to the
7 department for a license to operate a satellite classroom. A
8 satellite classroom shall be subject to all requirements of the
9 Nebraska Cosmetology, Electrology, Esthetics, Nail Technology, and
10 Body Art Practice Act and rules and regulations adopted and
11 promulgated under such act, except as follows:

12 (1) A satellite classroom shall consist of classroom
13 facilities only, and no clinical activities may be performed
14 thereat. A satellite classroom shall contain a minimum of four
15 hundred square feet of floor space;

16 (2) Students located at a satellite classroom may move to
17 the home school, or vice versa, without being considered transfer
18 students;

19 (3) Students in a satellite classroom shall be ~~reported~~
20 maintained on the same monthly report form as students in the home
21 school; and

22 (4) No satellite classroom may operate in any manner
23 unless the home school is at the time operating and possesses
24 a full active license, except a satellite classroom may keep
25 different days and hours of operation from those of its home

1 school. The license to operate a satellite classroom shall be
2 revoked or shall ~~lapse~~ expire at the same time as that for its home
3 school.

4 The ~~board and the department~~ may by department, with the
5 recommendation of the board, may adopt and promulgate rules and
6 regulations to modify or waive any of the operating or student
7 requirements of a school of cosmetology for a satellite classroom
8 if the ~~board and the department~~ determine determines that such
9 requirements are not applicable or appropriate to a satellite
10 classroom.

11 Sec. 374. Section 71-3,150, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 ~~71-3,150~~ The owner of each school of cosmetology or
14 school of esthetics shall have full responsibility for ensuring
15 that the school is operated in compliance with all applicable
16 laws and rules and regulations and shall be liable for any
17 and all violations occurring in the school. Each school of
18 cosmetology shall be operated by a manager who shall hold an
19 active instructor's license and who shall be present on the
20 premises of the school no less than thirty-five hours each week.
21 Each manager of a school of esthetics shall hold an active
22 esthetics instructor's license and shall be present on the premises
23 of the school no less than thirty-five hours each week. The manager
24 may have responsibility for the daily operation of the school
25 or satellite classroom and, if so, shall share with the owner

1 liability for any and all violations occurring in the school or
2 satellite classroom.

3 Sec. 375. Section 71-3,151, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-3,151~~ In order to be licensed as an apprentice salon
6 by the department, an applicant shall meet and present to the
7 department evidence of meeting the following requirements:

8 (1) The proposed apprentice salon shall hold a current
9 active license as a cosmetology salon or esthetics salon;

10 (2) The proposed apprentice salon shall employ or plan to
11 employ one active instructor for each two apprentices or fraction
12 thereof it enrolls; and

13 (3) The proposed apprentice salon shall provide an area
14 of not less than one hundred square feet to be used solely for
15 educational purposes.

16 Sec. 376. Section 71-3,152, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-3,152~~ Any person seeking a license to operate an
19 apprentice salon shall submit an application to the department.
20 The application shall be on such forms and shall include such
21 information as the department and the board may require. If
22 the applicant is an individual, the application shall include
23 the applicant's social security number. A a complete application
24 shall be received by the department at least thirty days before
25 construction or remodeling of the building proposed for use is

1 scheduled to begin. If no construction or remodeling is planned,
2 the application shall be received at least thirty days before
3 training of apprentices is scheduled to begin. Along with the
4 application the applicant shall submit:

5 (1) A detailed floor plan or blueprint of the proposed
6 apprentice salon sufficient to demonstrate compliance with the
7 Nebraska Cosmetology, Electrology, Esthetics, Nail Technology, and
8 Body Art Practice Act;

9 (2) ~~A statement confirming application for a surety bond~~
10 ~~in the amount of one thousand dollars for each apprentice planned~~
11 ~~to be enrolled conforming to the requirements of the bond required~~
12 ~~for schools of cosmetology;~~ Evidence of minimal property damage,
13 bodily injury, and liability insurance coverage;

14 (3) A list of the names and qualifications of all
15 instructors employed or proposed to be employed;

16 (4) Completed ~~student entrance notifications~~ enrollment
17 forms for all apprentices proposed to be enrolled;

18 (5) A copy of the rules the salon proposes to use for its
19 apprentices;

20 (6) A copy of the apprentice contract;

21 (7) A copy of the curriculum proposed to be used;

22 (8) A proposed schedule of training for each apprentice;

23 and

24 (9) A completed cosmetology education evaluation scale.

25 Sec. 377. Section 71-3,153, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-3,153~~ Each application for a license to operate an
3 apprentice salon shall be reviewed by the department for compliance
4 with the requirements of the ~~Nebraska~~ Cosmetology, Electrology,
5 Esthetics, Nail Technology, and Body Art Practice Act. In the
6 event an application is denied, the applicant shall be informed
7 in writing of the grounds for denial and such denial shall not
8 prejudice further applications by the applicant. In the event an
9 application is approved, the department shall immediately conduct
10 an operation inspection of the proposed apprentice salon. A salon
11 passing the inspection shall be issued a license to operate and
12 may begin training apprentices upon receipt of notification to
13 such effect. A salon failing the operation inspection shall submit,
14 within fifteen days, evidence of corrective action to improve those
15 aspects of operation found deficient. If, after a second inspection
16 to be conducted within thirty days of receipt of evidence, the
17 salon does not receive a satisfactory rating, or if evidence is not
18 submitted within fifteen days, the application may be denied.

19 Sec. 378. Section 71-3,154, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-3,154~~ In order to maintain and renew its license in
22 good standing, each apprentice salon shall operate in accordance
23 with the following requirements:

24 (1) The apprentice salon shall at all times comply with
25 all applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology,

1 Esthetics, Nail Technology, and Body Art Practice Act and all rules
2 and regulations adopted and promulgated under such act;

3 (2) The salon shall maintain its salon license in good
4 standing; and

5 (3) The salon shall operate in accordance with all
6 operating requirements and all student requirements of a school
7 of cosmetology or school of esthetics, except that the ~~board and~~
8 ~~the department may by rule and regulation~~ department, with the
9 recommendation of the board, may adopt and promulgate rules and
10 regulations to modify or waive any such requirements that are
11 deemed not applicable to an apprentice salon.

12 Sec. 379. Section 71-3,156, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-3,156~~ The license of an apprentice salon that has been
15 revoked or ~~lapsed~~ expired for any reason may not be reinstated. An
16 original application for licensure shall be submitted and approved
17 before such apprentice salon may accept apprentices for training.

18 Sec. 380. Section 71-3,157, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-3,157~~ Each apprentice salon license issued shall be
21 in effect solely for the owner or owners and premises named
22 thereon and shall ~~lapse~~ expire automatically upon any change of
23 ownership or location. An original application for licensure shall
24 be submitted and approved before such apprentice salon may accept
25 apprentices for training.

1 Sec. 381. Section 71-3,158, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-3,158~~ The owner of each apprentice salon shall have
4 full responsibility for ensuring that the apprentice salon is
5 operated in compliance with all applicable laws, rules, and
6 regulations and shall be liable for any and all violations
7 occurring in the apprentice salon.

8 Sec. 382. Section 71-3,159, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-3,159~~ (1) Practice outside a licensed cosmetology
11 establishment shall be permitted in the following circumstances:

12 (a) A registered cosmetician may apply cosmetics or
13 esthetics products within the scope of such activity permitted a
14 cosmetician in the home of a client or customer; and

15 (b) A licensed cosmetology salon or esthetics salon may
16 employ licensed cosmetologists and estheticians, according to the
17 licensed activities of the salon, to perform home services by
18 meeting the following requirements:

19 (i) In order to be issued a home services permit by the
20 department, an applicant shall hold a current active salon license;
21 and

22 (ii) Any person seeking a home services permit shall
23 submit an application to the department. The application shall be
24 on such forms and shall contain such information as the department
25 and the board may require. A a complete application shall be

1 ~~received by the department~~ at least ten days before the proposed
2 date for beginning home services. Along with the application
3 the applicant shall submit evidence of ~~application for~~ liability
4 insurance or bonding.

5 (2) The department shall issue a home services permit to
6 each applicant meeting the requirements set forth in ~~subsection (1)~~
7 ~~of~~ this section.

8 ~~(3) Any licensed electrology establishment may have its~~
9 ~~licensed electrologist make calls outside of its establishment~~
10 ~~if the licensed establishment holds a home services permit for~~
11 ~~electrology from the department to do so. Any establishment seeking~~
12 ~~such a permit shall submit an application to the department~~
13 ~~on a form supplied by the department. Such application shall~~
14 ~~contain such information as the department may require. A complete~~
15 ~~application shall be received by the department at least ten days~~
16 ~~before the proposed date for beginning home services.~~

17 Sec. 383. Section 71-3,160, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-3,160~~ In order to maintain in good standing or
20 renew its home services permit, ~~or home services permit for~~
21 ~~electrology,~~ a salon ~~or electrology establishment~~ shall at all
22 times operate in accordance with all requirements for operation,
23 maintain its license in good standing, and comply with the
24 following requirements:

25 (1) Clients receiving home services shall be in emergency

1 circumstances which shall generally be defined as any condition
2 sufficiently immobilizing to prevent the client from leaving his or
3 her residence regularly to conduct routine affairs of daily living
4 such as grocery shopping, visiting friends and relatives, attending
5 social events, attending worship services, and other similar
6 activities. Emergency circumstances may include such conditions
7 or situations as:

8 (a) Chronic illness or injury leaving the client
9 bedridden or with severely restricted mobility;

10 (b) Extreme general infirmity such as that associated
11 with the aging process;

12 (c) Temporary conditions including, but not limited
13 to, immobilizing injury and recuperation from serious illness
14 or surgery;

15 (d) Having sole responsibility for the care of an invalid
16 dependent requiring constant attention; or

17 (e) Any other conditions that, in the opinion of
18 the ~~board,~~ department, meet the general definition of emergency
19 circumstances;

20 (2) The salon ~~or electrology establishment~~ shall
21 determine that each person receiving home services meets the
22 requirements of subdivision (1) of this section and shall:

23 (a) Complete a client information form supplied by the
24 department before home services may be provided to any client; and

25 (b) Keep on file the client information forms of all

1 clients it is currently providing with home services or to whom it
2 has provided such services within the past two years;

3 (3) The salon ~~or electrology establishment~~ shall employ
4 or contract with persons licensed under the ~~Nebraska~~ Cosmetology,
5 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
6 to provide home services and shall not permit any person to perform
7 any home services under its authority for which he or she is not
8 licensed;

9 ~~(4) Each salon or electrology establishment holding a~~
10 ~~home services permit or home services permit for electrology shall~~
11 ~~report to the department every six months, as directed by the~~
12 ~~department, on the current status of each home services client;~~

13 ~~(5) (4) No client shall be left unattended while any~~
14 ~~chemical service is in progress or while any electrical appliance~~
15 ~~is in use; and~~

16 ~~(6) (5) Each salon or electrology establishment providing~~
17 ~~home services shall post a daily itinerary for each licensee~~
18 ~~providing home services. The kit for each licensee shall be~~
19 ~~available for inspection at the salon or at the home of the client~~
20 ~~receiving services.~~

21 Sec. 384. Section 71-3,161, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-3,161~~ Agents of the department may make operation
24 inspections in the homes of clients if such inspections are limited
25 to the activities, procedures, and materials of the licensee

1 providing home services.

2 Sec. 385. Section 71-3,162, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~71-3,162~~ No licensee may perform home services except
5 when employed by or under contract to a salon ~~or electrology~~
6 ~~establishment~~ holding a valid home services permit, ~~or a valid home~~
7 ~~services permit for electrology.~~

8 Sec. 386. Section 71-3,163, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-3,163~~ Each home services permit ~~or home services~~
11 ~~permit for electrology~~ shall be subject to renewal at the same
12 time as the salon ~~or electrology establishment~~ license and
13 shall be renewed upon request of the permitholder if the salon
14 ~~or electrology establishment~~ is operating its home services in
15 compliance with the Nebraska Cosmetology, Electrology, Esthetics,
16 Nail Technology, and Body Art Practice Act and if the salon ~~or~~
17 ~~electrology establishment~~ license is renewed. No permit that has
18 been revoked or ~~lapsed~~ expired may be reinstated or transferred to
19 another owner or location.

20 Sec. 387. Section 71-3,164, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-3,164~~ The owner of each salon ~~or electrology~~
23 ~~establishment~~ holding a home services permit ~~or home services~~
24 ~~permit for electrology~~ shall have full responsibility for ensuring
25 that the home services are provided in compliance with all

1 applicable laws and rules and regulations and shall be liable for
 2 any violations which occur.

3 Sec. 388. Section 71-3,180, Reissue Revised Statutes of
 4 Nebraska, is amended to read:

5 ~~71-3,180~~ On and after January 1, 2000, ~~(1)~~ licensure
 6 Licensure shall be required before any person may engage in
 7 the full, unsupervised practice of nail technology. No ~~(2)~~
 8 ~~ne~~ person may assume the title of nail technician or nail
 9 technology instructor without first being licensed under the
 10 Nebraska Cosmetology, Electrology, Esthetics, Nail Technology, and
 11 Body Art Practice Act. No ~~(3)~~ ~~ne~~ person, group, company, or
 12 other entity shall operate, advertise, or hold himself, herself, or
 13 itself out as operating a nail technology establishment in which
 14 any of the practices of nail technology are carried out unless
 15 such nail technology establishment is licensed under the ~~Nebraska~~
 16 ~~Cosmetology Act.~~ act. No person shall provide nail technology
 17 services unless he or she practices in a currently licensed
 18 cosmetology establishment or nail technology establishment.

19 Sec. 389. Section 71-3,181, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 ~~71-3,181~~ On and after January 1, 2000, ~~ne~~ No person,
 22 group, company, limited liability company, or other entity shall
 23 engage in any of the following acts without being licensed as
 24 required by the Nebraska Cosmetology, Electrology, Esthetics, Nail
 25 Technology, and Body Art Practice Act, unless specifically excepted

1 by the act:

2 (1) Performing or advertising or holding oneself out as
3 performing or qualified to perform any of the practices of nail
4 technology;

5 (2) Teaching or advertising or holding oneself out as
6 teaching or qualified to teach any of the practices of nail
7 technology; or

8 (3) Operating or advertising or holding oneself out as
9 operating an establishment in which any of the practices of nail
10 technology are performed or taught.

11 Sec. 390. Section 71-3,183, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-3,183~~ In order to be licensed as a nail technician
14 or nail technology instructor by examination, an individual shall
15 meet, and present to the department evidence of meeting, the
16 following requirements:

17 (1) He or she has attained the age of seventeen years
18 on or before the beginning date of the examination for which
19 application is being made; as evidenced by a birth certificate,
20 baptismal certificate, or other equivalent document as determined
21 by the department;

22 (2) He or she has completed formal education equivalent
23 to a United States high school education; as evidenced by a
24 high school diploma, general educational development certificate,
25 or equivalent document as determined by the department;

1 ~~(3) He or she possesses the ability to identify and~~
2 ~~respond to emergency situations that could occur in the practice of~~
3 ~~nail technology, as evidenced by successful completion of a basic~~
4 ~~first-aid course;~~

5 ~~(4) He or she files a complete and proper application~~
6 ~~with the department which includes the individual's social security~~
7 ~~number, accompanied by the appropriate fee;~~

8 ~~(5) (3) He or she possesses sufficient ability to read~~
9 ~~the English language to permit the applicant to practice in a~~
10 ~~safe manner, as evidenced by successful completion of the written~~
11 ~~examination; and~~

12 ~~(6) (4) He or she has graduated from a school of~~
13 ~~cosmetology or nail technology school providing a nail technology~~
14 ~~program. Evidence of graduation shall include documentation of~~
15 ~~the total number of hours of training earned and a diploma or~~
16 ~~certificate from the school to the effect that the applicant has~~
17 ~~complied with the following:~~

18 (a) For licensure as a nail technician, the program of
19 studies shall consist of a minimum of not less than one hundred
20 fifty hours and not more than three hundred hours, as set by
21 the board; ~~seven~~ ~~sixteen hours of which shall include instruction on~~
22 ~~operating a nail drill;~~ and

23 (b) For licensure as a nail technology instructor, the
24 program of studies shall consist of a minimum of not less than one
25 hundred fifty hours and not more than three hundred hours, as set

1 by the board, beyond the program of studies required for licensure
2 as a nail technician and the individual shall be currently licensed
3 as a nail technician in Nebraska as evidenced by possession of a
4 valid Nebraska nail technician license.

5 The department shall grant a license in the appropriate
6 category to any person meeting the requirements specified in this
7 section.

8 Sec. 391. Section 71-3,184, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-3,184 An application for any type of nail technology~~
11 ~~licensure or registration shall be made on forms and in the~~
12 ~~manner prescribed by the department with the approval of the~~
13 ~~board.~~ No application for any type of licensure or registration
14 shall be considered complete unless all information requested on
15 the application form has been supplied, all seals and signatures
16 required have been obtained, and all supporting and documentary
17 evidence has been received by the department., ~~and the application~~
18 ~~is accompanied by the appropriate fee.~~

19 Sec. 392. Section 71-3,186, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-3,186~~ The board shall approve and the department shall
22 cause examinations to be administered as required for licensure
23 in nail technology under the Nebraska Cosmetology, Electrology,
24 Esthetics, Nail Technology, and Body Art Practice Act for the
25 purpose of establishing the possession of minimum competency in the

1 knowledge and skills required on the part of the applicant.

2 ~~The department shall provide at least one year's notice~~
3 ~~of future examination dates to nail technology schools and schools~~
4 ~~of cosmetology. Such schools shall be responsible for notifying~~
5 ~~their students of upcoming examination dates.~~

6 Sec. 393. Section 71-3,187, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-3,187~~ (1) Examinations approved by the board may
9 be national standardized examinations, but in all cases the
10 examinations shall be related to the knowledge and skills necessary
11 to perform the practices being examined and shall be related to the
12 curricula required to be taught in nail technology programs.

13 (2) ~~The board shall fix the time and place of each~~
14 ~~examination no less than one year in advance. At least two~~
15 ~~examinations shall be given annually. All examinations shall be~~
16 ~~conducted in the city of Lincoln unless ordered otherwise by the~~
17 ~~department.~~

18 ~~(3) If examinations are administered directly by the~~
19 ~~department, the examination shall be administered by a chief~~
20 ~~examiner who shall be an employee of the department.~~

21 ~~(4)~~ (3) In order to successfully complete the
22 examination, an applicant shall obtain an average grade of
23 seventy-five percent on the written examination.

24 ~~(5) The department shall keep a permanent record of all~~
25 ~~grades received in examinations and shall provide any individual a~~

1 copy of his or her grades upon request without charge.

2 ~~(6) The department may adopt and promulgate rules and~~
3 ~~regulations to provide for procedures, development, administration,~~
4 ~~scoring, and reviewing of examinations and to protect the security~~
5 ~~of the contents of examination questions and answers in the~~
6 ~~examination review. The department shall not enter into an~~
7 ~~agreement to adopt an examination from a national testing service~~
8 ~~without first obtaining from such service detailed documentation of~~
9 ~~the process of examination development and maintenance.~~

10 Sec. 394. Section 71-3,191, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-3,191~~ The department may grant a license based on
13 licensure in another jurisdiction to a nail technician or nail
14 technology instructor who presents proof of the following:

15 (1) He or she has attained the age of seventeen years;
16 ~~as evidenced by a birth certificate, baptismal certificate, or~~
17 ~~other equivalent document as determined by the department;~~

18 (2) He or she has completed formal education equivalent
19 to a United States high school education; ~~as evidenced by a~~
20 ~~high school diploma, general educational development certificate,~~
21 ~~or equivalent document as determined by the department;~~

22 ~~(3) He or she has filed a complete and proper application~~
23 ~~with the department which includes the individual's social security~~
24 ~~number, accompanied by the appropriate fee;~~

25 ~~(4)~~ (3) He or she is currently licensed as a nail

1 technician or its equivalent or as a nail technology instructor
2 or its equivalent in another jurisdiction, and ~~that~~ he or she
3 has never been disciplined or had his or her license revoked; ;
4 ~~and that,~~ so far as the records of the licensing authority of
5 the jurisdiction are concerned, the applicant is entitled to its
6 endorsement;

7 ~~(5)~~ (4) For licensure as a nail technician, evidence of:

8 (a) Completion of a program of nail technician studies
9 consisting of a minimum of not less than one hundred fifty hours
10 and not more than three hundred hours, as set by the board, ~~sixteen~~
11 ~~hours of which shall include instruction on operating a nail drill,~~
12 and successful passage of a written examination. If a written
13 examination was not required for licensure in another jurisdiction,
14 the applicant must take the Nebraska written examination; or

15 (b) At least twelve months of practice as a nail
16 technician following issuance of such license in another
17 jurisdiction; and

18 ~~(6)~~ (5) For licensure as a nail technology instructor,
19 evidence of:

20 (a) Completion of a program of studies consisting of a
21 minimum of not less than one hundred fifty hours and not more
22 than three hundred hours, as set by the board, beyond the program
23 of studies required for licensure in another jurisdiction as a
24 nail technician, successful passage of a written examination, and
25 current licensure as a nail technician in Nebraska as evidenced

1 by possessing a valid Nebraska nail technician license. If a
2 written examination was not required for licensure as a nail
3 technology instructor, the applicant must take the Nebraska written
4 examination; or

5 (b) At least twelve months of practice as a nail
6 technology instructor following issuance of such license in another
7 jurisdiction.

8 Sec. 395. Section 71-3,192, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-3,192~~ Every person holding a license or registration
11 in nail technology issued by the department under the ~~Nebraska~~
12 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
13 Practice Act shall display it in a conspicuous place in his
14 or her principal place of employment, and every nail technology
15 establishment shall so display the then current licenses and
16 registrations of all practitioners there employed.

17 Sec. 396. Section 71-3,193, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-3,193~~ ~~On and after January 1, 2000,~~ ~~registration~~
20 Licensure shall be required before any person may act as a nail
21 technology temporary practitioner, and no person shall assume such
22 title without first being ~~registered~~ licensed by the department
23 under section ~~71-3,194.~~ 397 of this act.

24 Sec. 397. Section 71-3,194, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-3,194~~ An applicant for ~~registration~~ licensure as a
2 nail technology temporary practitioner ~~shall file a complete and~~
3 ~~proper application with the department and~~ shall show evidence that
4 his or her completed application for regular licensure has been
5 accepted by the department, that he or she has not failed any
6 portion of the licensure examination, and that he or she has been
7 accepted for work in a licensed nail technology or cosmetology
8 establishment under the supervision of a licensed nail technician
9 or licensed cosmetologist. An individual registered as a temporary
10 practitioner on December 1, 2008, shall be deemed to be licensed
11 as a temporary practitioner under the Cosmetology, Electrology,
12 Esthetics, Nail Technology, and Body Art Practice Act on such date.
13 The temporary practitioner may continue to practice under such
14 registration as a license until it would have expired under its
15 terms.

16 Sec. 398. Section 71-3,195, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-3,195 Registration~~ A license as a nail technology
19 temporary practitioner shall be granted for a set period of
20 time and cannot be renewed. ~~Registration shall expire six weeks~~
21 ~~following the written examination date~~ The license shall expire
22 eight weeks following the date of issuance or upon receipt
23 of examination results, whichever occurs first. The ~~registration~~
24 license of a temporary practitioner who fails to take the first
25 ~~regularly~~ scheduled examination shall expire immediately ~~after~~ the

1 ~~beginning of the examination~~ unless the ~~board~~ department finds that
2 the temporary practitioner was unable to attend the examination
3 due to an emergency or other valid circumstances. If the ~~board~~
4 department so finds, it may extend the ~~registration until six~~
5 ~~weeks after the date of the next regularly scheduled written~~
6 ~~examination~~ license for an additional eight weeks or until receipt
7 of the examination results, whichever occurs first. No ~~registration~~
8 license may be extended in such manner more than once for each
9 temporary practitioner.

10 Sec. 399. Section 71-3,206, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-3,206~~ The following classes of persons have a
13 limited exemption from the nail technology continuing competency
14 requirements established by the board pursuant to section ~~71-377~~:

15 ~~(1)~~ Any licensee submitting proof that he or she was
16 suffering from a serious or disabling illness or disability that
17 prevented him or her from completing the continuing competency
18 requirements shall be exempt for the biennium if, by the renewal
19 date, he or she is able to practice effectively and to attend
20 continuing competency activities. Any licensee who remains unable
21 to practice effectively at his or her regularly scheduled renewal
22 date shall be placed on inactive status. A physician's statement
23 shall be submitted in support of any request for a continuing
24 competency exemption based on an illness or disability;

25 ~~(2)~~ Any licensee submitting proof of service in the

1 regular armed forces of the United States during any part of the
2 immediately preceding biennium shall be exempt for that biennium;

3 (3) Any person receiving an initial nail technology
4 license in Nebraska during the second year of the biennium shall be
5 exempt for that biennium only;

6 (4) Any licensee submitting proof that he or she has
7 not lived in Nebraska at any time during the twenty-four months
8 immediately preceding the date of license renewal and who has not
9 provided nail technology services in Nebraska at any time during
10 such period shall be exempt for that biennium; and

11 (5) A The department, with the recommendation of the
12 board, may waive continuing competency requirements, in part or
13 in total, for any two-year licensing period when a licensee
14 submits documentation that circumstances beyond his or her control
15 prevented completion of such requirements as provided in section
16 46 of this act. In addition to circumstances determined by the
17 department to be beyond the licensee's control pursuant to such
18 section, a nail technology instructor who meets the continuing
19 competency requirements for the nail technology instructor's
20 license shall be exempt from meeting the continuing competency
21 requirements for his or her nail technician license for that
22 biennium.

23 Sec. 400. Section 71-3,208, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-3,208~~ On and after January 1, 2000, no No person

1 shall operate or profess or attempt to operate a nail technology
2 establishment unless such establishment is licensed by the
3 department under the ~~Nebraska Cosmetology, Electrology, Esthetics,~~
4 Nail Technology, and Body Art Practice Act. The department shall
5 not issue or renew a license for a nail technology establishment
6 until all requirements of the ~~Nebraska Cosmetology Act~~ act have
7 been complied with. No person shall engage in any of the practices
8 of nail technology in any location or premises other than a
9 licensed nail technology or cosmetology establishment except as
10 specifically permitted in the ~~Nebraska Cosmetology Act~~ act.

11 Sec. 401. Section 71-3,210, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-3,210~~ In order to be licensed as a nail technology
14 salon by the department, an applicant shall meet, and present to
15 the department evidence of meeting, the following requirements:

16 (1) The proposed nail technology salon shall be a fixed,
17 permanent structure or part of one;

18 (2) The proposed nail technology salon shall be
19 physically separated from all other business or residential
20 activities except cosmetology, barbering, manicuring, pedicuring,
21 and retail sales;

22 (3) The separation required in subdivision (2) of this
23 section shall be by fixed walls or by partitions not less than six
24 feet high;

25 (4) All areas of the nail technology salon, including

1 those used for manicuring, pedicuring, or retail sales, shall
2 comply with the sanitary requirements of the ~~Nebraska Cosmetology~~
3 ~~Act~~, Cosmetology, Electrology, Esthetics, Nail Technology, and Body
4 Art Practice Act;

5 (5) A nail technology salon located in a residence shall
6 be entirely distinct and separate from any living quarters, except
7 that there may be one connecting door to the living portion of
8 the dwelling as an access entrance to the salon for the owner or
9 operator, but such entrance shall not be for the use of the general
10 public;

11 (6) The entrance into the proposed nail technology salon
12 used by the general public shall lead directly from the outside to
13 the salon, except that a salon located in a commercial building may
14 have its entrance open from a public area such as a foyer, hallway,
15 mall, concourse, or retail sales floor. The requirements of this
16 subdivision do not apply to nail salons located within licensed
17 cosmetology salons;

18 (7) The proposed nail technology salon shall have at
19 least one hundred fifty square feet of floor space. If more than
20 one practitioner is to be employed in the salon at the same time,
21 the salon shall contain an additional space of at least fifty
22 square feet for each additional practitioner, except that a salon
23 employing a licensee exclusively to perform home services need not
24 provide additional space for such employee;

25 (8) The proposed nail technology salon shall include

1 toilet facilities unless the salon is located in a commercial
2 building in which public toilet facilities are available that open
3 directly off of a public area;

4 (9) The proposed nail technology salon shall have
5 handwashing facilities within the salon; and

6 (10) The proposed nail technology salon shall meet all
7 state or local building code and fire code requirements.

8 Sec. 402. Section 71-3,211, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-3,211~~ Any person seeking a license to operate a nail
11 technology salon shall submit an application to the department.
12 The application shall be on such forms and shall include such
13 information as the department and the board may require. A a
14 completed application shall be received by the department at least
15 thirty days before construction or remodeling of the building
16 proposed for use is scheduled to begin. If the applicant is an
17 individual, the application shall include the applicant's social
18 security number. If no construction or remodeling is planned,
19 the application shall be submitted at least thirty days before
20 the proposed opening of the salon for operation. Along with the
21 application the applicant shall submit:

22 (1) A detailed floor plan or blueprint of the proposed
23 salon sufficient to demonstrate compliance with the requirements of
24 section ~~71-3,210~~, 401 of this act; and

25 (2) A ~~statement confirming application for~~ Evidence of

1 minimal property damage, bodily injury, and liability insurance
2 coverage for the proposed salon.

3 Sec. 403. Section 71-3,212, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-3,212~~ Each application for a license to operate a nail
6 technology salon shall be reviewed by the department for compliance
7 with the requirements of the ~~Nebraska~~ Cosmetology, Electrology,
8 Esthetics, Nail Technology, and Body Art Practice Act. If an
9 application is denied, the applicant shall be informed in writing
10 of the grounds for denial and such denial shall not prejudice
11 future applications by the applicant. If an application is
12 approved, the department shall issue the applicant a certificate of
13 consideration to operate a salon pending an operation inspection.
14 The department shall conduct an operation inspection of each salon
15 issued a certificate of consideration within six months after
16 the issuance of such certificate. Salons passing the inspection
17 shall be issued a permanent license. Salons failing the inspection
18 shall submit within fifteen days evidence of corrective action
19 taken to improve those aspects of operation found deficient. If
20 evidence is not submitted within fifteen days or if after a second
21 inspection the salon does not receive a satisfactory rating, it
22 shall immediately relinquish its certificate of consideration and
23 cease operation.

24 Sec. 404. Section 71-3,213, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-3,213~~ In order to maintain its license in good
2 standing, each nail technology salon shall operate in accordance
3 with the following requirements:

4 (1) The nail technology salon shall at all times
5 comply with all applicable provisions of the ~~Nebraska~~ Cosmetology,
6 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
7 and all rules and regulations adopted and promulgated under such
8 act;

9 (2) The nail technology salon owner or his or her agent
10 shall notify the department at least thirty days prior to any
11 change of ownership, name, or address, and at least one week prior
12 to closure, except in emergency circumstances as determined by the
13 department;

14 (3) No nail technology salon shall permit any unlicensed
15 or unregistered person to perform any of the practices of nail
16 technology within its confines or employment;

17 (4) The nail technology salon shall display a name upon,
18 over, or near the entrance door distinguishing it as a nail
19 technology salon;

20 (5) The nail technology salon shall permit any duly
21 authorized agent of the department to conduct an operation
22 inspection or investigation at any time during the normal operating
23 hours of the nail technology salon, without prior notice, and the
24 owner and manager shall assist the inspector by providing access
25 to all areas of the nail technology salon, all personnel, and all

1 records requested by the inspector;

2 (6) The nail technology salon shall display in a
3 conspicuous place the following records:

4 (a) The current license or certificate of consideration
5 to operate a nail technology salon;

6 (b) The current licenses or registrations of all persons
7 employed by or working in the nail technology salon; and

8 (c) The rating sheet from the most recent operation
9 inspection;

10 (7) At no time shall a nail technology salon employ more
11 employees than permitted by the square footage requirements of the
12 ~~Nebraska Cosmetology Act;~~ act; and

13 (8) The nail technology salon shall not knowingly permit
14 its employees or clients to use, consume, serve, or in any
15 manner possess or distribute intoxicating beverages or controlled
16 substances upon its premises. ~~during the hours the nail technology~~
17 ~~salon is open to the public.~~

18 Sec. 405. Section 71-3,214, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-3,214 Each nail technology salon license issued under~~
21 ~~the Nebraska Cosmetology Act shall expire and be subject to renewal~~
22 ~~on September 30 of each odd-numbered year.~~ The procedure for
23 renewing a nail technology salon license shall be in accordance
24 with section ~~71-110.01,~~ 43 of this act, except that in addition
25 to all other requirements, ~~no salon license may be renewed unless~~

1 the nail technology salon has attained a rating of satisfactory
2 on its most recent operation inspection. Any nail technology salon
3 not able to meet such requirement shall have its license placed
4 on inactive status until all deficiencies of operation have been
5 corrected, and the nail technology salon shall not be open to the
6 public during the time its license is inactive. the salon shall
7 submit evidence of minimal property damage, bodily injury, and
8 liability insurance coverage.

9 Sec. 406. Section 71-3,215, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-3,215~~ A nail technology salon license that has been
12 revoked or expired for any reason shall not be reinstated. An
13 original application for licensure shall be submitted and approved
14 before such salon may reopen for business.

15 Sec. 407. Section 71-3,216, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-3,216~~ Each nail technology salon license issued shall
18 be in effect solely for the owner or owners and premises named on
19 the license and shall ~~lapse~~ expire automatically upon any change
20 of ownership or location. An original application for licensure
21 shall be submitted and approved before such salon may reopen for
22 business.

23 Sec. 408. Section 71-3,217, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-3,217~~ The owner of each nail technology salon shall

1 have full responsibility for ensuring that the salon is operated
2 in compliance with all applicable laws, rules, and regulations and
3 shall be liable for any and all violations occurring in the salon.

4 Sec. 409. Section 71-3,218, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-3,218~~ In order to be licensed as a nail technology
7 school by the department, an applicant shall meet, and present to
8 the department evidence of meeting, the following requirements:

9 (1) The proposed school shall be a fixed, permanent
10 structure or part of one;

11 (2) The proposed school shall have a contracted
12 enrollment of students;

13 (3) The proposed school shall contain at least five
14 hundred square feet of floor space and facilities, staff,
15 apparatus, and equipment appropriate to its projected enrollment
16 in accordance with the standards established by the board and the
17 ~~department~~ by rule and regulation; and

18 (4) The proposed school shall not have the same entrance
19 as or direct access to a cosmetology salon or nail technology
20 salon.

21 Sec. 410. Section 71-3,219, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-3,219~~ A licensed school of cosmetology is not required
24 to be licensed as a nail technology school in order to provide a
25 nail technology program.

1 Sec. 411. Section 71-3,220, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-3,220~~ Any person seeking a license to operate a nail
4 technology school shall submit an application to the department.
5 The application shall be on such forms and shall include such
6 information as the department and the board may require. A a
7 completed application shall be received by the department at least
8 thirty days before construction or remodeling of the building
9 proposed for use is scheduled to begin. If no construction or
10 remodeling is planned, the application shall be received at least
11 thirty days before the proposed opening of the school. ~~If the~~
12 ~~applicant is an individual, the application shall include the~~
13 ~~applicant's social security number.~~

14 Sec. 412. Section 71-3,221, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-3,221~~ Along with the application, an applicant for a
17 license to operate a nail technology school shall submit:

18 (1) A detailed floor plan or blueprint of the proposed
19 school building sufficient to show compliance with the relevant
20 rules and regulations;

21 (2) ~~A statement confirming application for~~ Evidence of
22 minimal property damage, personal injury, and liability insurance
23 coverage for the proposed school;

24 (3) A copy of the curriculum to be taught for all
25 courses;

1 (4) A copy of the school rules and the student contract;

2 (5) A list of the names and credentials of all persons
3 licensed or registered under the ~~Nebraska~~ Cosmetology, Electrology,
4 Esthetics, Nail Technology, and Body Art Practice Act to be
5 employed by the school and the name and qualifications of the
6 school manager;

7 (6) A completed nail technology education evaluation
8 scale;

9 (7) A schedule of proposed hours of operation and class
10 and course scheduling; and

11 (8) Any additional information the department may
12 require. + ~~and~~

13 ~~(9) The required fee.~~

14 A nail technology school's license shall be valid only
15 for the location named in the application. When a school desires
16 to change locations, it shall comply with section ~~71-3,229.~~ 420 of
17 this act.

18 Sec. 413. Section 71-3,222, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-3,222~~ Each application for a license to operate a
21 nail technology school shall be reviewed by the department for
22 compliance with the requirements of the ~~Nebraska~~ Cosmetology,
23 Electrology, Esthetics, Nail Technology, and Body Art Practice
24 Act. If an application is denied, the applicant shall be informed
25 in writing of the grounds for denial and such denial shall not

1 prejudice future applications by the applicant. If an application
2 is accepted, the ~~board and the~~ department shall immediately conduct
3 an accreditation inspection of the proposed school. A school
4 passing the inspection shall be issued a license and may begin
5 operation as soon as the inspection results are received. If the
6 proposed school fails the inspection, the applicant shall submit,
7 within fifteen days, evidence of corrective action taken to improve
8 those aspects of operation found deficient. If, after a second
9 inspection to be conducted within thirty days after receipt of
10 evidence, the school does not receive a satisfactory rating, or if
11 evidence is not received within fifteen days, the application may
12 be denied.

13 Sec. 414. Section 71-3,223, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-3,223~~ In order to maintain its license in good
16 standing, each nail technology school shall operate in accordance
17 with the following requirements:

18 (1) The school shall at all times comply with all
19 applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology,
20 Esthetics, Nail Technology, and Body Art Practice Act and all rules
21 and regulations adopted and promulgated under such act;

22 (2) The school owner or owners or their authorized agent
23 shall notify the department at least thirty days prior to any
24 change of ownership, name, or address, and at least sixty days
25 prior to closure, except in emergency circumstances as determined

1 by the department;

2 (3) No school shall permit anyone other than a nail
3 technology student, nail technology student instructor, or nail
4 technology instructor to perform any of the practices of nail
5 technology within its confines or employ, except that such
6 restriction shall not prevent a school from inviting guest teachers
7 who are not licensed or registered to provide lectures to students
8 or student instructors if the guest lecturer does not perform any
9 of the practices of nail technology;

10 (4) The school shall display a name upon or near the
11 entrance door designating it as a nail technology school;

12 (5) The school shall display in a conspicuous place
13 within the clinic area a sign reading: All services in this school
14 are performed by students who are training in nail technology.
15 A notice to such effect shall also appear in all advertising
16 conducted by the school for its clinic services;

17 (6) The school shall permit any duly authorized agent of
18 the department to conduct an operation inspection or investigation
19 at any time during the normal operating hours of the school without
20 prior notice, and the owner or manager shall assist the inspector
21 by providing access to all areas of the school, all personnel, and
22 all records requested by the inspector;

23 (7) The school shall display in a conspicuous place the
24 following records:

25 (a) The current license to operate a nail technology

1 school;

2 (b) The current licenses or registrations of all persons
3 licensed or registered under the act, except students, employed by
4 or working in the school; and

5 (c) The rating sheet from the most recent accreditation
6 inspection;

7 (8) At no time shall a school enroll more students than
8 permitted by the ~~Nebraska Cosmetology Act~~ act or the rules and
9 regulations adopted and promulgated under ~~such~~ the act;

10 (9) The school shall not knowingly permit its students,
11 employees, or clients to use, consume, serve, or in any other
12 manner possess or distribute intoxicating beverages or controlled
13 substances upon its premises; ~~during the hours the school is in~~
14 ~~operation;~~

15 ~~(10) Food shall not be consumed in any area where nail~~
16 ~~technology services are being taught or performed and food shall~~
17 ~~not be stored in the same area where chemical supplies or used~~
18 ~~equipment is stored;~~

19 ~~(11)~~ (10) No nail technology instructor or nail
20 technology student instructor shall perform, and no school shall
21 permit such person to perform, any of the practices of nail
22 technology on the public in a nail technology school other than
23 that part of the practical work which pertains directly to the
24 teaching of practical subjects to nail technology students or
25 nail technology student instructors, and complete nail technology

1 services shall not be provided for a client unless done in a
2 demonstration class of theoretical or practical studies;

3 ~~(12)~~ (11) The school shall maintain space, staff,
4 library, teaching apparatus, and equipment as established by
5 rules and regulations adopted and promulgated under the ~~Nebraska~~
6 ~~Cosmetology Act~~; act;

7 ~~(13)~~ (12) The school shall keep a daily record of the
8 attendance and clinical performance of each student and student
9 instructor;

10 ~~(14)~~ (13) The school shall maintain regular class and
11 instructor hours and shall require the minimum curriculum;

12 ~~(15)~~ (14) The school shall establish and maintain
13 criteria and standards for student grading, evaluation, and
14 performance and shall award a certificate or diploma to a student
15 only upon completing a full course of study in compliance with such
16 standards, except that no student shall receive such certificate or
17 diploma until he or she has satisfied or made an agreement with
18 the school to satisfy all outstanding financial obligations to the
19 school;

20 ~~(16)~~ (15) The school shall maintain on file the
21 enrollment of each student; and

22 ~~(17)~~ (16) The school shall print and provide to each
23 student a copy of the school rules, which shall not be inconsistent
24 with the ~~Nebraska Cosmetology Act~~ act or with the rules and
25 regulations adopted and promulgated under such act and which

1 shall include policies of the school with respect to tuition,
2 reimbursement, conduct, attendance, grading, earning of hours and
3 credits, demerits, penalties, dismissal, graduation requirements,
4 dress, and other information sufficient to advise the student
5 of the standards he or she will be required to maintain. The
6 ~~board~~ department may review any school's rules to determine their
7 consistency with the intent and content of the ~~Nebraska Cosmetology~~
8 ~~Act~~ act and ~~its~~ the rules and regulations and may overturn any
9 school rules found not to be in accord.

10 Sec. 415. Section 71-3,224, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-3,224~~ In order to maintain its license in good
13 standing, each nail technology school shall operate in accordance
14 with the following requirements:

15 (1) Every person accepted for enrollment as a standard
16 student shall meet the following qualifications:

17 (a) He or she has attained the age of seventeen years on
18 or before the date of his or her enrollment in a nail technology
19 school;

20 (b) He or she has completed the equivalent of a high
21 school education; and

22 (c) He or she has not undertaken any training in nail
23 technology in this state after January 1, 2000, without being
24 enrolled as a nail technology student;

25 ~~(2)~~ (2) (a) Every person accepted for enrollment as a

1 special study nail technology student shall meet the following
2 requirements:

3 ~~(a)~~ (i) He or she has attained the age of seventeen years
4 on or before the date of enrollment in a nail technology school;

5 ~~(b)~~ (ii) He or she has completed the tenth grade; and

6 ~~(c)~~ (iii) He or she is actively continuing his or her
7 formal high school education on a full-time basis as determined by
8 the department.

9 (b) Special study nail technology students shall be
10 limited to attending a nail technology school for no more than
11 eight hours per week during the school year;

12 (3) Proof of age shall consist of a birth certificate,
13 baptismal certificate, or other equivalent document as determined
14 by the department. Evidence of education shall consist of a
15 high school diploma, general educational development certificate,
16 transcript from a college or university, or equivalent document
17 as determined by the department. No nail technology school shall
18 accept an individual for enrollment who does not provide evidence
19 of meeting the age and education requirements for registration;

20 (4) Every person accepted for enrollment as a nail
21 technology student instructor shall show evidence of current
22 licensure as a nail technician in Nebraska and completion of formal
23 education equivalent to a United States high school education;

24 (5) The school shall, at all times the school is in
25 operation, have at least one nail technology instructor in the

1 school for each twenty students or fraction thereof enrolled in the
2 school;

3 (6) The school shall not permit any nail technology
4 student to render clinical services on members of the public with
5 or without fees until such student has satisfactorily completed
6 the beginning curriculum, except that the ~~board~~ department may
7 establish guidelines by which it may approve such practices as part
8 of the beginning curriculum;

9 (7) No school shall pay direct compensation to any of its
10 nail technology students. Nail technology student instructors may
11 be paid as determined by the school;

12 (8) All nail technology students and nail technology
13 student instructors shall be under the supervision of a cosmetology
14 instructor, nail technology instructor, or nail technology student
15 instructor at all times when nail technology services are being
16 taught or performed;

17 ~~(9) Once a nail technology student has been classified as~~
18 ~~a permanent drop, if after two years the student has not reenrolled~~
19 ~~in a nail technology school in Nebraska or transferred his or her~~
20 ~~hours to a school in another state, all hours earned by the student~~
21 ~~shall be declared void;~~

22 ~~(10)~~ (9) No student shall be permitted by the school to
23 train or work in a school in any manner for more than ten hours a
24 day; and

25 ~~(11)~~ (10) The school shall not credit a nail technology

1 student or nail technology student instructor with hours except
2 when such hours were earned in the study or practice of nail
3 technology in accordance with the required curriculum. Hours shall
4 be credited on a daily basis. Once credited, hours cannot be
5 removed or disallowed except by the department upon a finding that
6 the hours have been wrongfully allowed.

7 Sec. 416. Section 71-3,225, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-3,225~~ Nail technology students or nail technology
10 student instructors may transfer from one nail technology school in
11 Nebraska to another at any time.

12 The school to which the student is transferring shall
13 be entitled to receive from the student's previous school, upon
14 request, any and all records pertaining to the student.

15 Sec. 417. Section 71-3,226, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-3,226~~ Nail technology students or nail technology
18 student instructors may transfer into a nail technology school in
19 Nebraska from a school in another state if:

20 (1) The school in the other state meets all requirements
21 of section ~~71-3,224~~; 415 of this act; and

22 (2) The student submits to the department evidence that
23 the school from which he or she is transferring was fully
24 accredited by the appropriate body in that state at the time
25 the student attended.

1 In order to be honored in Nebraska, some portion of the
2 nail technology student's hours shall have been earned within the
3 two years immediately prior to the transfer. The board and the
4 department shall adopt and promulgate rules and regulations for
5 determining the manner in which hours shall be awarded to students
6 or nail technology students transferring from such schools.

7 Sec. 418. Section 71-3,227, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-3,227~~ No nail technology school shall at any time
10 enroll more than one nail technology student instructor for each
11 full-time nail technology instructor or cosmetology instructor
12 actively working in and employed by the school.

13 Sec. 419. Section 71-3,228, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-3,228~~ Each nail technology school license issued under
16 the Nebraska Cosmetology Act shall expire and be subject to
17 renewal on December 31 of each odd-numbered year. The procedure for
18 renewing a school license shall be in accordance with section
19 ~~71-110.01,~~ 43 of this act, except that in addition to all
20 other requirements, the nail technology school shall receive a
21 satisfactory rating on an accreditation inspection conducted by the
22 board and the department, in consultation with the State Department
23 of Education, within the six months immediately prior to the date
24 of license renewal.

25 Any nail technology school not able to meet the

1 requirements for license renewal shall have its license placed on
2 inactive status until all deficiencies have been corrected, and
3 the school shall not operate in any manner during the time its
4 license is inactive. If the deficiencies are not corrected within
5 six months after the date of license renewal, the license may
6 be revoked unless the ~~board~~ department approves an extension of
7 the time limit. The license of a school that has been revoked or
8 ~~lapsed~~ expired for any reason shall not be reinstated. An original
9 application for licensure shall be submitted and approved before
10 such school may reopen.

11 Sec. 420. Section 71-3,229, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-3,229~~ Each nail technology school license issued shall
14 be in effect solely for the owner or owners and premises named
15 thereon and shall ~~lapse~~ expire automatically upon any change
16 of ownership or change in the county of location. An original
17 application for licensure shall be submitted and approved before
18 such school may reopen, except that a school moving to a new
19 location within the same county may do so by filing an application
20 as required by the department, paying the required fee, submitting
21 a new floor plan, and passing an operation inspection. Materials
22 shall be received by the department no less than thirty days prior
23 to the move, and all provisions of this section shall be complied
24 with before the school may begin operation at its new location.

25 Sec. 421. Section 71-3,230, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-3,230~~ A licensed nail technology salon may employ
3 licensed nail technicians to perform nail technology home services
4 by meeting the following requirements:

5 (1) In order to be issued a nail technology home services
6 permit by the department, an applicant shall hold a current active
7 cosmetology salon license or nail technology salon license; and

8 (2) Any person seeking a nail technology home services
9 permit shall submit an application to the department. The
10 application shall be on such forms and shall contain such
11 information as the department and the board may require. A a
12 complete application shall be received by the department at least
13 ten days before the proposed date for beginning home services.
14 Along with the application the applicant shall submit evidence of
15 application for liability insurance or bonding.

16 The department shall issue a nail technology home
17 services permit to each applicant meeting the requirements set
18 forth in this section.

19 Sec. 422. Section 71-3,231, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-3,231~~ In order to maintain in good standing or renew
22 its nail technology home services permit, a nail technology salon
23 shall at all times operate in accordance with all requirements for
24 operation, maintain its license in good standing, and comply with
25 the following requirements:

1 (1) Clients receiving nail technology home services shall
2 be in emergency circumstances which shall generally be defined as
3 any condition sufficiently immobilizing to prevent the client from
4 leaving his or her residence regularly to conduct routine affairs
5 of daily living such as grocery shopping, visiting friends and
6 relatives, attending social events, attending worship services, and
7 other similar activities. Emergency circumstances may include such
8 conditions or situations as:

9 (a) Chronic illness or injury leaving the client
10 bedridden or with severely restricted mobility;

11 (b) Extreme general infirmity such as that associated
12 with the aging process;

13 (c) Temporary conditions including, but not limited
14 to, immobilizing injury and recuperation from serious illness
15 or surgery;

16 (d) Having sole responsibility for the care of an invalid
17 dependent requiring constant attention; or

18 (e) Any other conditions that, in the opinion of
19 the ~~board~~, department, meet the general definition of emergency
20 circumstances;

21 (2) The nail technology salon shall determine that
22 each person receiving nail technology home services meets the
23 requirements of subdivision (1) of this section and shall:

24 (a) Complete a client information form supplied by the
25 department before nail technology home services may be provided to

1 any client; and

2 (b) Keep on file the client information forms of all
3 clients it is currently providing with nail technology home
4 services or to whom it has provided such services within the
5 past two years;

6 (3) The nail technology salon shall employ or contract
7 with persons licensed under the ~~Nebraska~~ Cosmetology, Electrology,
8 Esthetics, Nail Technology, and Body Art Practice Act to provide
9 nail technology home services and shall not permit any person to
10 perform any home services under its authority for which he or she
11 is not licensed;

12 (4) No client shall be left unattended while any chemical
13 service is in progress or while any electrical appliance is in use;
14 and

15 (5) Each nail technology salon providing nail technology
16 home services shall post a daily itinerary for each licensee
17 providing home services. The kit for each licensee shall be
18 available for inspection at the salon or at the home of the client
19 receiving services.

20 Sec. 423. Section 71-3,232, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-3,232~~ Agents of the department may make operation
23 inspections in the homes of clients if such inspections are limited
24 to the activities, procedures, and materials of the licensee
25 providing nail technology home services.

1 Sec. 424. Section 71-3,233, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-3,233~~ No licensee may perform nail technology home
4 services except when employed by or under contract to a nail
5 technology salon holding a valid nail technology home services
6 permit.

7 Sec. 425. Section 71-3,234, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-3,234~~ Each nail technology home services permit shall
10 be subject to renewal at the same time as the nail technology
11 salon license and shall be renewed upon request of the permitholder
12 if the salon is operating its nail technology home services in
13 compliance with the ~~Nebraska~~ Cosmetology, Electrology, Esthetics,
14 Nail Technology, and Body Art Practice Act and if the salon license
15 is renewed. No permit that has been revoked or ~~lapsed~~ expired may
16 be reinstated or transferred to another owner or location.

17 Sec. 426. Section 71-3,235, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-3,235~~ The owner of each salon holding a nail
20 technology home services permit shall have full responsibility for
21 ensuring that the nail technology home services are provided in
22 compliance with all applicable laws and rules and regulations and
23 shall be liable for any violations which occur.

24 Sec. 427. Section 71-3,236, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 ~~71-3,236~~ No person shall perform body art on or to
2 any person under eighteen years of age without the prior written
3 consent of the parent or court-appointed guardian of such person.
4 The person giving such consent must be present during the
5 procedure. A copy of such consent shall be retained for a period of
6 five years by the person performing such body art. Nothing in this
7 section shall be construed to require the performance of body art
8 on a person under eighteen years of age. Violation of this section
9 is a Class III misdemeanor.

10 Sec. 428. Section 71-3,237, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-3,237~~ Nothing in the ~~Nebraska~~ Cosmetology,
13 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
14 shall be construed to authorize a person performing body art to
15 engage in the practice of medicine and surgery.

16 Sec. 429. Section 71-3,238, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-3,238~~ The licensure of persons performing body art
19 or operating a body art facility under the ~~Nebraska~~ Cosmetology,
20 Electrology, Esthetics, Nail Technology, and Body Art Practice Act
21 shall not be construed to restrict or prohibit a governing body
22 of a county, city, or village from providing further requirements
23 for performing body art or operating a body art facility within
24 its jurisdiction under ordinances at least as stringent as, or more
25 stringent than, the regulations of the ~~Nebraska Cosmetology Act.~~

1 act.

2 Sec. 430. The department shall establish and collect fees
3 for credentialing under the Cosmetology, Electrology, Esthetics,
4 Nail Technology, and Body Art Practice Act as provided in sections
5 51 to 57 of this act.

6 Sec. 431. Section 71-3,169, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 ~~71-3,169~~ (1) The department shall conduct inspections as
9 required by the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail
10 Technology, and Body Art Practice Act. Two types of inspections
11 shall be conducted which shall be known as operation inspections
12 and accreditation inspections. An operation inspection shall be
13 conducted to ascertain that an establishment or a facility is
14 operating in full compliance with all laws, rules, and regulations.
15 An accreditation inspection shall be conducted to accomplish the
16 purposes of an operation inspection and to ascertain that a school
17 of cosmetology, a nail technology school, a school of esthetics,
18 or an apprentice salon is maintaining academic standards and
19 requirements of a quality consistent with the purpose of the
20 ~~Nebraska Cosmetology Act.~~ act. All accreditation inspections shall
21 be announced at least two weeks prior to the actual inspection.

22 (2) ~~The board and the department,~~ with the recommendation
23 of the board, shall adopt and promulgate rules and regulations
24 governing the standards and criteria to be used in the conduct
25 of inspections, the rating system to be used, and the level of

1 achievement necessary to receive a passing grade.

2 (3) Operation inspections shall be unannounced and shall
3 be conducted during the normal working hours of the establishment
4 or facility. ~~The inspector shall make every effort to gather the~~
5 ~~information he or she needs to complete the operation inspection in~~
6 ~~an inconspicuous manner.~~

7 (4) At the conclusion of the inspection, the owner or
8 manager of the establishment or facility shall receive a copy of
9 the rating form, which form shall be promptly displayed, and a
10 ~~verbal~~ statement of any deficiencies noted.

11 Sec. 432. Section 71-3,170, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 ~~71-3,170~~ If a cosmetology establishment, a nail
14 technology establishment, ~~an electrology establishment,~~ or a body
15 art facility receives a rating of unsatisfactory, it shall submit
16 evidence to the department within fifteen days providing proof of
17 corrective action taken. A repeat inspection shall be conducted
18 within sixty days after the original inspection to determine
19 if corrective action has occurred. The department may assess a
20 fee for each repeat inspection required. If the establishment
21 or facility receives an unsatisfactory rating on the repeat
22 inspection, ~~or if evidence is not submitted within fifteen days,~~
23 the establishment shall be fined as determined by the department by
24 rule and regulation. If the establishment or facility receives an
25 unsatisfactory rating after the second unsatisfactory inspection or

1 fails to pay the fine assessed within thirty days after notice,
2 the license shall immediately be placed on inactive status pending
3 action by the department, and the establishment or facility may not
4 operate in any manner while its license is inactive.

5 The owner or manager of an establishment or a facility
6 whose license has been placed on inactive status ~~shall~~ may appear
7 before the board and the department to show cause why the
8 department should not ask the Attorney General to initiate steps
9 to revoke the license. The department may, as a result of such
10 appearance, grant additional time for corrective action to occur,
11 but the establishment or facility may not operate during such time.
12 The establishment or facility may not return to operation until it
13 has achieved a satisfactory rating on an inspection.

14 Sec. 433. Section 71-3,177, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 ~~71-3,177~~ Each of the following may be considered an act
17 of unprofessional conduct when committed by a person licensed or
18 registered under the Nebraska Cosmetology, Electrology, Esthetics,
19 Nail Technology, and Body Art Practice Act:

20 (1) Performing any of the practices regulated under
21 the Nebraska Cosmetology Act act for which an individual is not
22 licensed or registered or operating an establishment or facility
23 without the appropriate license;

24 (2) Obstructing, interfering, or failing to cooperate
25 with an inspection or investigation conducted by an authorized

1 representative of the department when acting in accordance with the
2 ~~Nebraska Cosmetology Act, act;~~

3 (3) Failing to report to the department a suspected
4 violation of the ~~Nebraska Cosmetology Act, act;~~

5 (4) Aiding and abetting an individual to practice any of
6 the practices regulated under the ~~Nebraska Cosmetology Act act~~ for
7 which he or she is not licensed or registered;

8 (5) Engaging in any of the practices regulated under the
9 ~~Nebraska Cosmetology Act act~~ for compensation in an unauthorized
10 location;

11 (6) Engaging in the practice of any healing art or
12 profession for which a license is required without holding such a
13 license;

14 (7) Enrolling a student or an apprentice without
15 submitting a complete student entrance notification to the
16 ~~department, obtaining the appropriate documents prior to~~
17 enrollment;

18 (8) Knowingly falsifying any student or apprentice record
19 or report;

20 (9) Initiating or continuing home services to a client
21 who does not meet the criteria established in the ~~Nebraska~~
22 ~~Cosmetology Act, act;~~

23 (10) Knowingly issuing a certificate of completion or
24 diploma to a student or an apprentice who has not completed all
25 requirements for the issuance of such document;

1 (11) Failing, by a school of cosmetology, a nail
2 technology school, a school of esthetics, or an apprentice salon,
3 to follow its published rules;

4 (12) Violating, by a school of cosmetology, nail
5 technology school, or school of esthetics, any federal or state
6 law involving the operation of a vocational school or violating
7 any federal or state law involving participation in any federal or
8 state loan or grant program;

9 (13) Knowingly permitting any person under supervision to
10 violate any law, rule, or regulation or knowingly permitting any
11 establishment or facility under supervision to operate in violation
12 of any law, rule, or regulation;

13 (14) Receiving two unsatisfactory inspection reports
14 within any sixty-day period;

15 (15) Engaging in any of the practices regulated under
16 the ~~Nebraska Cosmetology Act~~ act while afflicted with any active
17 case of a serious contagious disease, infection, or infestation, as
18 determined by the department, or in any other circumstances when
19 such practice might be harmful to the health or safety of clients;

20 (16) Violating any rule or regulation relating to the
21 practice of body art; and

22 (17) Performing body art on or to any person under
23 eighteen years of age (a) without the prior written consent of
24 the parent or court-appointed guardian of such person, (b) without
25 the presence of such parent or guardian during the procedure, or

1 (c) without retaining a copy of such consent for a period of five
2 years.

3 Sec. 434. Sections 434 to 484 of this act shall be known
4 and may be cited as the Dentistry Practice Act.

5 Sec. 435. For purposes of the Dentistry Practice Act
6 and elsewhere in the Uniform Credentialing Act, unless the context
7 otherwise requires, the definitions found in sections 436 to 446 of
8 this act apply.

9 Sec. 436. Accredited dental hygiene program means a
10 program that is accredited by the American Dental Association
11 Commission on Dental Accreditation, which is an agency recognized
12 by the United States Department of Education as an accrediting
13 body, that is within a school or college approved by the board,
14 and that requires a dental hygiene curriculum of not less than two
15 academic years.

16 Sec. 437. Accredited school or college of dentistry means
17 a school or college approved by the board and accredited by the
18 American Dental Association Commission on Dental Accreditation,
19 which is an agency recognized by the United States Department of
20 Education as an accrediting body.

21 Sec. 438. Analgesia means the diminution or elimination
22 of pain in the conscious patient.

23 Sec. 439. Board means the Board of Dentistry.

24 Sec. 440. Section 71-183.02, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-183.02~~ For purposes of sections 71-183 to 71-193.20,
2 ~~dental~~ Dental assistant means a person, other than a dental
3 hygienist, employed by a licensed dentist for the purpose of
4 assisting such dentist in the performance of his or her clinical
5 and clinical-related duties.

6 Sec. 441. General anesthesia means a controlled state
7 of unconsciousness accompanied by a partial or complete loss
8 of protective reflexes, including the inability to independently
9 maintain an airway and respond purposefully to physical
10 stimulation or verbal command, and produced by a pharmacologic or
11 nonpharmacologic method or a combination thereof.

12 Sec. 442. General supervision means the directing of the
13 authorized activities of a dental hygienist or dental assistant
14 by a licensed dentist and shall not be construed to require the
15 physical presence of the supervisor when directing such activities.

16 Sec. 443. Indirect supervision means supervision when the
17 licensed dentist authorizes the procedure to be performed by a
18 dental hygienist or dental assistant and the licensed dentist is
19 physically present on the premises when such procedure is being
20 performed by the dental hygienist pursuant to section 465 of this
21 act or the dental assistant.

22 Sec. 444. Inhalation analgesia means the administration
23 of nitrous oxide and oxygen to diminish or eliminate pain in a
24 conscious patient.

25 Sec. 445. Parenteral means administration other than

1 through the digestive tract, including, but not limited to,
2 intravenous administration.

3 Sec. 446. Sedation means a depressed level of
4 consciousness in which the patient's ability to independently
5 and continuously maintain an airway and respond appropriately
6 to physical stimulation or verbal command is retained and which
7 is produced by a pharmacologic or nonpharmacologic method or a
8 combination thereof.

9 Sec. 447. The board shall have ten members. The members
10 shall consist of two public members; six licensed dentists,
11 including one official or member of the instructional staff from
12 each accredited school or college of dentistry in this state; and
13 two licensed dental hygienists.

14 Sec. 448. Section 71-183, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-183~~ For the purpose of Chapter 71, article 1, any Any
17 person shall be deemed to be practicing dentistry who:

18 (1) Performs, or attempts or professes to perform, any
19 dental operation or oral surgery or dental service of any kind,
20 gratuitously or for a salary, fee, money, or other remuneration
21 paid, or to be paid directly or indirectly, to ~~himself~~ such person
22 or to any other person or agency who is a proprietor of a place
23 where dental operations, oral surgery, or dental services are
24 performed;

25 (2) Directly or indirectly, by any means or method, takes

1 impression of the human tooth, teeth, jaws, or performs any phase
2 of any operation incident to the replacement of a part of a tooth;

3 (3) Supplies artificial substitutes for the natural
4 teeth, or ~~who~~ furnishes, supplies, constructs, reproduces, or
5 repairs any prosthetic denture, bridge, appliance, or ~~any~~ other
6 structure to be worn in the human mouth, except on the written work
7 authorization of a duly licensed and registered dentist;

8 (4) Places such appliance or structure in the human
9 mouth, ~~or~~ adjusts or attempts or professes to adjust the same, or
10 delivers the same to any person other than the dentist upon whose
11 work authorization the work was performed;

12 (5) Professes to the public by any method to furnish,
13 supply, construct, reproduce, or repair any prosthetic denture,
14 bridge, appliance, or other structure to be worn in the human
15 mouth;

16 (6) Diagnoses, ~~or~~ professes to diagnose, ~~prescribe~~
17 prescribes for, ~~or~~ professes to prescribe for, treats, or professes
18 to treat disease, pain, deformity, deficiency, injury, or physical
19 condition of the human teeth or jaws, or adjacent structure;

20 (7) Extracts, or attempts to extract, human teeth, or
21 corrects or attempts to correct, malformations of teeth or of the
22 jaws;

23 (8) Repairs or fills cavities in the human teeth;

24 (9) Diagnoses, makes, and adjusts appliances to
25 artificial casts or malposed teeth for treatment of the malposed

1 teeth in the human mouth, with or without instruction;

2 (10) Uses a roentgen or X-ray machine for the purpose of
3 taking dental X-rays or roentgenograms;

4 (11) Gives or professes to give, interpretations or
5 readings of dental X-rays or roentgenograms;

6 (12) Administers an anesthetic of any nature in
7 connection with a dental operation;

8 (13) Uses the words dentist, dental surgeon, or oral
9 surgeon, ~~or~~ the letters D.D.S., or D.M.D., or any other words,
10 letters, title, or descriptive matter which in any way represents
11 ~~him~~ such person as being able to diagnose, treat, prescribe, or
12 operate for any disease, pain, deformity, deficiency, injury, or
13 physical condition of the teeth or jaws or adjacent structures; or

14 (14) States, ~~or~~ professes, or permits to be stated or
15 professed by any means or method whatsoever that he or she can
16 perform or will attempt to perform dental operations, or render a
17 diagnosis connected therewith.

18 Sec. 449. Section 71-183.01, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 ~~71-183.01 Nothing in section 71-183~~ The Dentistry
21 Practice Act shall not apply to:

22 (1) The practice of his or her profession by a physician
23 or surgeon licensed as such under the laws of this state unless he
24 or she practices dentistry as a specialty;

25 (2) The giving by a qualified anesthetist or registered

1 nurse of an anesthetic for a dental operation under the direct
2 supervision of a licensed dentist or physician;

3 (3) The practice of dentistry ~~in the discharge of their~~
4 ~~official duties~~ by graduate dentists or dental surgeons who serve
5 in the armed forces of the United States or the United States
6 Army, Navy, Public Health Service, Coast Guard, or who are employed
7 by the United States Department of Veterans Affairs or other
8 federal agencies, if their practice is limited to that service or
9 employment;

10 (4) The practice of dentistry by a licensed dentist
11 of other states or countries at meetings of the Nebraska
12 Dental Association or components thereof, or other like dental
13 organizations approved by the Board of Dentistry, while appearing
14 as clinicians;

15 ~~(5) The practice of dentistry by a person duly licensed~~
16 ~~to practice dentistry in another state who has been recommended by~~
17 ~~the secretary of the board of examiners in the state of licensure~~
18 ~~and who has been granted temporary practice rights by the Board of~~
19 ~~Dentistry, with the approval of the department, for a period not to~~
20 ~~exceed three months in any twelve-month period, if the requirements~~
21 ~~regarding education and examination for licensure in the state~~
22 ~~of licensure are equal to or exceed the requirements regarding~~
23 ~~education and examination for licensure in Nebraska;~~

24 ~~(6)~~ (5) The filling of work authorizations of a licensed
25 and registered dentist as provided in this subdivision by any

1 person or persons, association, corporation, or other entity for
2 the construction, reproduction, or repair of prosthetic dentures,
3 bridges, plates, or appliances to be used or worn as substitutes
4 for natural teeth if such person or persons, association,
5 corporation, or other entity does not solicit or advertise,
6 directly or indirectly by mail, card, newspaper, pamphlet, radio,
7 or otherwise, to the general public to construct, reproduce, or
8 repair prosthetic dentures, bridges, plates, or other appliances to
9 be used or worn as substitutes for natural teeth;

10 ~~(7)~~ (6) The use of roentgen or X-ray machines or other
11 rays for making radiograms or similar records of dental or oral
12 tissues under the supervision of a licensed dentist or physician
13 if such service is not advertised by any name whatever as an
14 aid or inducement to secure dental patronage, and no person shall
15 advertise that he or she has, leases, owns, or operates a roentgen
16 or X-ray machine for the purpose of making dental radiograms of
17 the human teeth or tissues or the oral cavity or administering
18 treatment thereto for any disease thereof;

19 ~~(8)~~ (7) The performance by a licensed dental hygienist,
20 under the supervision of a licensed dentist, of the oral
21 prophylaxis procedure which shall include the scaling and polishing
22 of teeth and such additional procedures as are prescribed in
23 accordance with rules and regulations adopted by the department;

24 ~~(9)~~ (8) The performance by a dental assistant, under
25 the supervision of a licensed dentist, of duties prescribed in

1 accordance with rules and regulations adopted by the department; ~~ex~~

2 ~~(10)~~ (9) The performance by a licensed dental hygienist,
3 by virtue of training and professional ability, under the
4 supervision of a licensed dentist, of taking dental roentgenograms.

5 Any other person is hereby authorized, under the supervision of a
6 licensed dentist, to take dental roentgenograms but shall not be
7 authorized to do so until he or she has satisfactorily completed a
8 course in dental radiology recommended by the board and approved
9 by the department;

10 (10) Students of dentistry who practice dentistry upon
11 patients in clinics in the regular course of instruction at an
12 accredited school or college of dentistry;

13 (11) Licensed physicians and surgeons who extract teeth
14 or treat diseases of the oral cavity, gums, teeth, or maxillary
15 bones as an incident to the general practice of their profession;
16 or

17 (12) Dental hygiene students who practice dental hygiene
18 upon patients in clinics in the regular course of instruction at an
19 accredited dental hygiene program. Such dental hygiene students are
20 also not engaged in the unauthorized practice of dental hygiene.

21 Sec. 450. Section 71-185, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-185~~ (1) Every applicant for a license to practice
24 dentistry shall ~~(1)~~ (a) present proof of graduation with a Doctor
25 of Dental Surgery degree or a Doctor of Dental Medicine degree

1 from an accredited school or college of dentistry, (b) and (2)
2 pass an examination approved by the Board of Dentistry which shall
3 consist of the National Board Dental Examinations, both Part I and
4 Part II, as constructed and administered by the American Dental
5 Association Joint Commission on National Dental Examinations, (c)
6 demonstrate the applicant's skill in clinical dentistry by passing
7 the practical examination administered by the Central Regional
8 Dental Testing Service or any other regional or state practical
9 examination that the Board of Dentistry determines to be comparable
10 to such practical examination, (d) pass a jurisprudence examination
11 approved by the board that is based on the Nebraska statutes,
12 rules, and regulations governing the practice of dentistry and
13 dental hygiene, and (e) demonstrate continuing clinical competency
14 as a condition of licensure if required by the board.

15 (2) Upon completion of these requirements, the
16 department, with the recommendation of the board, shall issue the
17 applicant a license to practice dentistry. prescribed by the Board
18 of Dentistry which shall be elementary and practical in character
19 but sufficiently thorough to test the fitness of the candidate to
20 practice dentistry. Such examination shall include questions on
21 anatomy, physiology, chemistry, dental materials, materia medica,
22 therapeutics, histology, pathology, oral surgery, operative and
23 prosthetic dentistry, dental jurisprudence, and such other subjects
24 as are usually found in the curriculum of a dental college.
25 Demonstrations of the applicant's skill in clinical dentistry shall

1 also be required.

2 The department shall accept, upon the recommendation
3 of the board and in lieu of the examination, a certificate of
4 examination issued by the National Board of Dental Examiners of
5 the United States of America. Every applicant for a license upon
6 the basis of such certificate shall be required to pay the fee
7 for licenses issued in dentistry without examination based upon a
8 certificate by examination held by the National Board of Dental
9 Examiners of the United States of America.

10 Each Nebraska-licensed dentist and dental hygienist in
11 active practice within the State of Nebraska shall, on or before
12 March 1 of each odd-numbered year, complete continuing competency
13 activities as required by the Board of Dentistry pursuant to
14 section 71-161.09 as a prerequisite for the licensee's next
15 subsequent license renewal.

16 Sec. 451. Section 71-193.04, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-193.04 Any person (1) of good moral character, (2) who
19 has attained the age of eighteen years, and (3) who is a graduate
20 of a training school for dental hygienists that is accredited
21 by the Commission on Dental Accreditation of the American Dental
22 Association and is approved by the Board of Dentistry and that
23 requires a course of not less than two academic years may be
24 examined by such board on the subjects considered essential by it
25 for a dental hygienist. Upon passage of the examination, the board

1 ~~shall recommend to the department that a license to practice as a~~
2 ~~dental hygienist be issued.~~

3 (1) Every applicant for a license to practice dental
4 hygiene shall (a) present proof of graduation from an accredited
5 dental hygiene program, (b) pass an examination approved by the
6 Board of Dentistry which shall consist of the National Board
7 Dental Hygiene Examination as constructed and administered by the
8 American Dental Association Joint Commission on National Dental
9 Examinations, (c) demonstrate the applicant's skill in clinical
10 dental hygiene by passing the practical examination administered
11 by the Central Regional Dental Testing Service or any other
12 regional or state practical examination that the Board of Dentistry
13 determines to be comparable to such practical examination, (d)
14 pass a jurisprudence examination approved by the board that is
15 based on the Nebraska statutes, rules, and regulations governing
16 the practice of dentistry and dental hygiene, and (e) demonstrate
17 continuing clinical competency as a condition of licensure if
18 required by the board.

19 (2) Upon completion of these requirements, the
20 department, with the recommendation of the board, shall issue the
21 applicant a license to practice dental hygiene.

22 Sec. 452. Any person who applies for a license to
23 practice dentistry or dental hygiene and who has failed on two
24 occasions to pass any part of the practical examination shall
25 be required to complete a course in clinical dentistry or dental

1 hygiene approved by the board before the department may consider
2 the results of a third examination as a valid qualification for a
3 license to practice dentistry or dental hygiene in the State of
4 Nebraska.

5 Sec. 453. Every applicant for a license to practice
6 dentistry based on a license in another state or territory of
7 the United States or the District of Columbia shall meet the
8 standards set by the board pursuant to section 26 of this act
9 and shall have been actively engaged in the practice of dentistry
10 for at least three years, one of which must be within the three
11 years immediately preceding the application, under a license in
12 another state or territory of the United States or the District of
13 Columbia. Practice in an accredited school or college of dentistry
14 for the purpose of completing a postgraduate or residency program
15 in dentistry also serves as active practice toward meeting this
16 requirement.

17 Sec. 454. Every applicant for a license to practice
18 dental hygiene based on a license in another state or territory
19 of the United States or the District of Columbia shall meet the
20 standards set by the board pursuant to section 26 of this act and
21 shall have been actively engaged in the practice of dental hygiene
22 for at least three years, one of which must be within the three
23 years immediately preceding the application, under a license in
24 another state or territory of the United States or the District
25 of Columbia. Practice in an accredited dental hygiene program for

1 the purpose of completing a postgraduate or residency program in
2 dental hygiene also serves as active practice toward meeting this
3 requirement.

4 Sec. 455. When circumstances indicate a need for the
5 issuance of a dental locum tenens in the State of Nebraska, the
6 department, with the recommendation of the board, may issue a
7 dental locum tenens to an individual who holds an active license to
8 practice dentistry in another state if the requirements regarding
9 education and examination for licensure in that state are equal to
10 or exceed the requirements regarding education and examination for
11 licensure in Nebraska. A dental locum tenens may be issued for a
12 period not to exceed ninety days in any twelve-month period.

13 Sec. 456. Section 71-185.02, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-185.02~~ (1) The department, with the ~~upon~~
16 recommendation of the Board of Dentistry board, shall issue
17 a temporary license to any person who ~~(1)~~ (a) has met the
18 requirements for a license to practice dentistry as set forth
19 in section ~~71-185~~ and ~~who~~ 450 of this act, (b) is enrolled in
20 an accredited school or college of dentistry for the purpose of
21 completing a postgraduate or residency program in dentistry, and
22 (c) and ~~(2)~~ is licensed in another jurisdiction under conditions
23 which the board finds equivalent to the requirements of the State
24 of Nebraska for obtaining a license to practice dentistry.

25 (2) Any person who desires a temporary license shall

1 make application to the department. Such application shall be
2 accompanied by the required fee.

3 (3) The temporary license shall be issued for a period of
4 one year and, upon application to the department, renewed annually
5 without the licensee having to pay a renewal fee.

6 (4) The temporary licensee shall be entitled to practice
7 dentistry, including prescribing legend drugs and controlled
8 substances, only under the auspices of the postgraduate or
9 residency program in which he or she is enrolled.

10 Sec. 457. Section 71-185.03, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-185.03~~ (1) The department, with the ~~upon~~
13 recommendation of the ~~Board of Dentistry~~ board, shall issue
14 a faculty license to any person who meets the requirements of
15 subsection (3) or (4) ~~or (5)~~ of this section. A faculty licensee
16 may practice dentistry only as a faculty member at a dental
17 ~~education institution~~ an accredited school or college of dentistry
18 in the State of Nebraska ~~accredited by the Commission on Dental~~
19 ~~Accreditation of the American Dental Association, the Commission~~
20 ~~on Dental Accreditation of Canada, or similar organization as~~
21 ~~determined by the board~~ and may teach dentistry, conduct research,
22 and participate in an institutionally administered faculty practice
23 only at such ~~dental education institution,~~ accredited school or
24 college of dentistry. A faculty licensee eligible for licensure
25 under subsection ~~(5)~~ (4) of this section shall limit his or

1 her practice to the clinical discipline in which he or she has
2 received postgraduate education at an accredited ~~dental education~~
3 ~~institution,~~ school or college of dentistry.

4 (2) Any person who desires a faculty license shall
5 make a written application to the department. The application
6 shall include information regarding the applicant's professional
7 qualifications, experience, and licensure. The application shall
8 be accompanied by a copy of the applicant's dental degree, any
9 other degrees or certificates for postgraduate education of the
10 applicant, the required fee, and certification from the dean of
11 an accredited ~~dental education institution~~ school or college of
12 dentistry in the State of Nebraska ~~that~~ at which the applicant has
13 a contract to be employed as a full-time faculty member, ~~at such~~
14 ~~institution.~~

15 ~~(3) A faculty license shall expire at the same time and~~
16 ~~be subject to the same renewal requirements as a regular dental~~
17 ~~license, except that such license shall remain valid and may only~~
18 ~~be renewed if:~~

19 ~~(a) The faculty licensee remains employed as a full-time~~
20 ~~faculty member of an accredited dental education institution in the~~
21 ~~State of Nebraska; and~~

22 ~~(b) The faculty licensee demonstrates continuing clinical~~
23 ~~competency if required by the board.~~

24 ~~(4) (3) An individual who graduated from an accredited~~
25 ~~dental education institution~~ school or college of dentistry shall

1 be eligible for a faculty license if he or she:

2 (a) Has or had a license to practice dentistry within
3 the past five years in some other state in the United States or a
4 Canadian province;

5 (b) Has a contract to be employed as a full-time faculty
6 member at an accredited ~~dental education institution~~ school or
7 college of dentistry in the State of Nebraska;

8 (c) Passes a jurisprudence examination administered by
9 the ~~Board of Dentistry,~~ board; and

10 (d) Agrees to demonstrate continuing clinical competency
11 as a condition of ~~renewal~~ licensure if required by the board.

12 ~~(5)~~ (4) An individual who graduated from a nonaccredited
13 ~~dental education institution~~ school or college of dentistry shall
14 be eligible for a faculty license if he or she:

15 (a) Has completed at least two years of postgraduate
16 education at an accredited ~~dental education institution~~ school or
17 college of dentistry and received a certificate or degree from such
18 ~~institution,~~ school or college of dentistry;

19 (b) Has a contract to be employed as a full-time faculty
20 member at an accredited ~~dental education institution~~ school or
21 college of dentistry in the State of Nebraska;

22 (c) Passes a jurisprudence examination administered by
23 the ~~Board of Dentistry,~~ board;

24 (d) Agrees to demonstrate continuing clinical competency
25 as a condition of ~~renewal~~ licensure if required by the board; and

1 (e) Has passed Part I and Part II of the National Board
2 Dental Examinations or its equivalent as determined by the Board of
3 Dentistry.

4 (5) A faculty license shall expire at the same time and
5 be subject to the same renewal requirements as a regular dental
6 license, except that such license shall remain valid and may only
7 be renewed if:

8 (a) The faculty licensee remains employed as a full-time
9 faculty member of an accredited school or college of dentistry in
10 the State of Nebraska; and

11 (b) The faculty licensee demonstrates continuing clinical
12 competency if required by the board.

13 Sec. 458. Section 71-185.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-185.01~~ (1) For purposes of this section,
16 practitioner's facility shall ~~mean~~ means a facility in which a
17 licensed dentist practices his or her profession, other than a
18 facility licensed pursuant to the Health Care Facility Licensure
19 Act.

20 (2) The department shall adopt and promulgate rules and
21 regulations which are approved by the State Board of Health for
22 practitioners' facilities in order to insure that such facilities
23 are safe and sanitary and use precautions necessary to prevent
24 the creation and spread of infectious and contagious diseases.
25 Based upon a formal complaint, the department or its employees

1 may inspect any practitioner's facility in this state to insure
2 compliance with such regulations.

3 (3) Within thirty days after an inspection of a
4 practitioner's facility which the department or its employees find
5 to be in violation of its rules and regulations, the department
6 shall notify the Board of Dentistry of its findings in writing. The
7 ~~department~~ Attorney General shall file a petition for disciplinary
8 action pursuant to section ~~71-150~~ 86 of this act if the violation
9 of the rules and regulations is not corrected within thirty days
10 after the licensee has received notice of such violation. The
11 department shall send a written progress report of its inspection
12 and actions taken to the board.

13 (4) It shall be considered unprofessional conduct for a
14 licensee to practice in a facility that does not comply with the
15 rules and regulations regarding sanitary practitioners' facilities.

16 Sec. 459. The department shall establish and collect fees
17 for credentialing under the Dentistry Practice Act as provided in
18 sections 51 to 57 of this act.

19 Sec. 460. Section 71-189, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-189~~ Every person who owns, operates, or controls a
22 dental office in which anyone other than himself or herself is
23 practicing dentistry, shall display the name of such person or
24 persons in a conspicuous place at the public entrance to such
25 office.

1 Sec. 461. Section 71-190, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-190~~ (1) No person owning, operating, or conducting any
4 place where dental work of any kind is done or contracted for shall
5 employ or permit any unlicensed dentist to practice dentistry in
6 such place.

7 (2) No person shall coerce or attempt to coerce a
8 licensed dentist to practice dentistry in any manner contrary to
9 the standards of acceptable and prevailing practice of the dental
10 profession. Any dentist subjected to such coercion or attempted
11 coercion has a cause of action against the person and may recover
12 his or her damages and reasonable attorney's fees.

13 (3) Violation of this section by a health care
14 professional regulated pursuant to the Uniform Licensing Law
15 Credentialing Act may be considered evidence of an act of
16 unprofessional conduct.

17 ~~(4) Violation of this section by a person not regulated~~
18 ~~under the Uniform Licensing Law is a Class III misdemeanor.~~

19 Sec. 462. Section 71-191, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-191~~ No person shall operate any place in which
22 dentistry is practiced under any other name than his or her
23 own~~7~~ or display~~7~~ in connection with his or her practice~~7~~ or on any
24 advertising matter~~7~~ any other than his or her own name. ~~Two~~ ~~+~~ ~~but~~
25 ~~two~~ or more licensed dentists~~7~~ who are associated in the practice~~7~~

1 may use all of their names. A widow, widower, or heir of a deceased
2 dentist may operate such office under the name of the deceased
3 dentist for a period of not longer than one year from the date of
4 death.

5 Sec. 463. Section 71-193.15, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-193.15~~ A licensed dental hygienist shall perform the
8 traditional dental hygiene functions set forth in section ~~71-193.17~~
9 464 of this act only when authorized to do so by a licensed
10 dentist who shall be responsible for the total oral health care
11 of the patient. The ~~Department of Health and Human Services~~
12 ~~Regulation and Licensure~~ department, in the conduct of public
13 health-related services, may authorize a licensed dental hygienist
14 to conduct preliminary charting and screening examinations, provide
15 oral health education for patients, including the teaching of
16 appropriate plaque control techniques, and perform or provide all
17 of the duties that any dental assistant is authorized to perform.

18 Sec. 464. Section 71-193.17, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-193.17~~ When properly authorized, a licensed dental
21 hygienist, under the general supervision of a licensed dentist, may
22 perform the following intra and extra oral procedures:

23 (1) Scaling of teeth, including subgingival regions and
24 root planing with hand and ultrasonic instruments;

25 (2) Polish all exposed tooth surfaces with motor-driven

1 and hand instruments in the oral prophylaxis procedure, including
2 polishing amalgam restorations;

3 (3) Conduct preliminary charting and screening
4 examinations;

5 (4) Periodontal probing and charting;

6 (5) Gingival curettage;

7 (6) Place and remove periodontal dressings;

8 (7) Remove sutures;

9 (8) Provide preventive measures, such as the application
10 of fluorides, sealants, and other recognized topical agents for the
11 prevention of oral disease;

12 (9) Provide impressions for study casts;

13 (10) Apply topical desensitizing agents;

14 (11) Provide radiographic exposures;

15 (12) Provide oral health education for patients,
16 including the teaching of appropriate plaque control techniques;
17 and

18 (13) Perform or provide all of the duties that any dental
19 assistant is authorized to perform.

20 Sec. 465. Section 71-193.18, Reissue Revised Statutes of
21 Nebraska, as amended by section 329, Legislative Bill 296, One
22 Hundredth Legislature, First Session, 2007, is amended to read:

23 ~~71-193.18~~ (1) A licensed dental hygienist may monitor
24 nitrous oxide analgesia under the indirect supervision of a
25 licensed dentist.

1 (2) A licensed dental hygienist may be approved by
2 the department, ~~upon~~ with the recommendation of the ~~Board of~~
3 ~~Dentistry, board,~~ to administer local anesthesia under the indirect
4 supervision of a licensed dentist. The ~~department board may,~~ ~~upon~~
5 ~~the recommendation of the board,~~ prescribe by rule and regulation:
6 The necessary education and preparation, which shall include, but
7 not be limited to, instruction in the areas of head and neck
8 anatomy, osteology, physiology, pharmacology, medical emergencies,
9 and clinical techniques; the necessary clinical experience; and the
10 necessary examination for purposes of determining the competence
11 of licensed dental hygienists to administer local anesthesia. ~~Upon~~
12 ~~the recommendation of the board,~~ the department The board may
13 approve successful completion after July 1, 1994, of a course of
14 instruction to determine competence to administer local anesthesia.
15 The course of instruction must be at an ~~institution~~ accredited
16 by a ~~regional or professional accrediting organization which is~~
17 ~~recognized by the United States Department of Education and~~
18 ~~approved by the Division of Public Health of the Department~~
19 ~~of Health and Human Services.~~ accredited school or college of
20 dentistry or an accredited dental hygiene program. The course of
21 instruction must be taught by a faculty member or members of
22 the ~~institution~~ school or college of dentistry or dental hygiene
23 program presenting the course. The ~~department board may~~ approve for
24 purposes of this subsection a course of instruction if such course
25 includes:

1 (a) At least twelve clock hours of classroom lecture,
2 including instruction in (i) medical history evaluation procedures,
3 (ii) anatomy of the head, neck, and oral cavity as it relates to
4 administering local anesthetic agents, (iii) pharmacology of local
5 anesthetic agents, vasoconstrictor, and preservatives, including
6 physiologic actions, types of anesthetics, and maximum dose per
7 weight, (iv) systemic conditions which influence selection and
8 administration of anesthetic agents, (v) signs and symptoms of
9 reactions to local anesthetic agents, including monitoring of vital
10 signs, (vi) management of reactions to or complications associated
11 with the administration of local anesthetic agents, (vii) selection
12 and preparation of the armamentaria for administering various
13 local anesthetic agents, and (viii) methods of administering local
14 anesthetic agents;

15 (b) At least twelve clock hours of clinical instruction
16 during which time at least three injections of each of the
17 anterior, middle and posterior superior alveolar, naso and greater
18 palatine, inferior alveolar, lingual, mental, long buccal, and
19 infiltration injections are administered; and

20 (c) Procedures, which shall include an examination, for
21 purposes of determining whether the hygienist has acquired the
22 necessary knowledge and proficiency to administer local anesthetic
23 agents.

24 Sec. 466. Section 71-193.19, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-193.19~~ The Department of Health and Human Services
2 Regulation and Licensure department, with the recommendation of
3 the board, may, by rule and regulation, prescribe functions,
4 procedures, and services in addition to those in section ~~71-193.17~~
5 464 of this act which may be performed by a licensed dental
6 hygienist under the supervision of a licensed dentist when such
7 additional procedures are educational or related to the oral
8 prophylaxis and intended to attain or maintain optimal oral health.

9 Sec. 467. Section 71-193.20, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-193.20~~ The department, with ~~upon~~ the recommendation
12 of the ~~Board of Dentistry~~ board, may adopt and promulgate rules
13 and regulations providing for employment or work-setting facilities
14 required for the provision of dental services by a licensed dental
15 hygienist.

16 Sec. 468. Section 71-193.13, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-193.13~~ Any licensed dentist, public institution, or
19 school may employ dental assistants, in addition to licensed
20 dental hygienists. Such dental assistants, under the supervision
21 of a licensed dentist, may perform such duties as are prescribed
22 in accordance with rules and regulations adopted and promulgated
23 by the ~~Department of Health and Human Services Regulation and~~
24 ~~Licensure.~~ department, with the recommendation of the board.

25 Sec. 469. Section 71-193.14, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-193.14~~ The Board of Dentistry shall recommend
3 department, with the recommendation of the board, shall adopt and
4 promulgate rules and regulations ~~to the department~~ governing the
5 performance of duties by licensed dental hygienists and dental
6 assistants. ~~The department shall adopt rules and regulations for~~
7 ~~such purpose upon the recommendations being submitted by the board.~~

8 Sec. 470. Section 71-193.23, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-193.23~~ Except as provided in section ~~71-193.24~~, after
11 ~~October 1, 1987~~, a A dentist licensed in this state shall not
12 administer ~~parenteral sedation~~, general anesthesia, parenteral
13 sedation, or inhalation analgesia in the practice of dentistry
14 unless he or she has been issued a permit to administer general
15 anesthesia, parenteral sedation, or inhalation analgesia pursuant
16 to the Dental Anesthesia Dentistry Practice Act.

17 Sec. 471. Section 71-193.25, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-193.25~~ Violations of the Dental Anesthesia Act A
20 violation of provisions of the Dentistry Practice Act relating to
21 the administration of general anesthesia, parenteral sedation, or
22 inhalation analgesia may result in action against the dentist's
23 permit, license, or both pursuant to ~~sections 71-155 to 71-161.18.~~
24 section 96 of this act.

25 Sec. 472. Section 71-193.26, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-193.26~~ The department, ~~upon~~ with the recommendation
3 of the board, shall issue a permit to a Nebraska-licensed dentist
4 to administer general anesthesia on an outpatient basis to dental
5 patients if the dentist:

6 (1) Maintains a properly equipped facility for the
7 administration of general anesthesia as determined by the board;

8 (2) Is currently certified in basic life-support skills
9 or the equivalent thereof;

10 (3) Has successfully completed an onsite evaluation
11 covering the areas of physical evaluation, monitoring, sedation,
12 and emergency medicine; and

13 (4) Meets at least one of the following criteria:

14 (a) Has completed one year of advanced training in
15 anesthesiology and related academic subjects beyond the dental
16 school level in an approved training program;

17 (b) Is a diplomate of the American Board of Oral and
18 Maxillofacial Surgery;

19 (c) Has completed the educational requirements for
20 eligibility for examination by the American Board of Oral and
21 Maxillofacial Surgery; or

22 (d) Is a fellow of the American Dental Society of
23 Anesthesiology. ~~+~~ ~~or~~

24 ~~(e) Is a licensed dentist who has been administering~~
25 ~~general anesthesia in a competent and efficient manner as~~

1 determined by the board for ten of the twelve years immediately
2 preceding October 1, 1988.

3 A dentist who has been issued a permit pursuant to
4 this section may administer ~~intravenous~~ parenteral sedation or
5 inhalation analgesia.

6 Sec. 473. Section 71-193.27, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-193.27~~ The department, ~~upon~~ with the recommendation
9 of the board, shall issue a permit to a Nebraska-licensed dentist
10 to administer parenteral sedation on an outpatient basis to dental
11 patients if the dentist:

12 (1) Maintains a properly equipped facility for the
13 administration of parenteral sedation as determined by the board;

14 (2) Is currently certified in basic life-support skills
15 or the equivalent thereof;

16 (3) Has successfully completed an onsite evaluation
17 covering the areas of physical evaluation, monitoring, sedation,
18 and emergency medicine; and

19 ~~(4)-(a)~~ (4) Is certified as competent in the
20 administration of parenteral sedation and in handling all
21 related emergencies by a university, teaching hospital, or other
22 facility approved by the board or by completing the curriculum
23 of an accredited ~~dental~~ school or college of dentistry. Such
24 certification shall specify the type, the number of hours, and the
25 length of formal training completed at such ~~institution~~ school

1 or college of dentistry. The formal training shall include, but
 2 not be limited to, forty didactic hours and twenty patient contact
 3 hours, including documentation of a minimum of fifteen supervised
 4 parenteral sedation cases. ~~or~~

5 ~~(b) Has been administering parenteral sedation on an~~
 6 ~~outpatient basis in a competent and efficient manner as determined~~
 7 ~~by the board for twelve months preceding October 1, 1988.~~

8 A dentist who has been issued a permit pursuant to this
 9 section may administer inhalation analgesia.

10 Sec. 474. Section 71-193.29, Reissue Revised Statutes of
 11 Nebraska, is amended to read:

12 ~~71-193.29~~ The department, upon with the recommendation of
 13 the board, shall issue a permit to a Nebraska-licensed dentist to
 14 administer inhalation analgesia on an outpatient basis to dental
 15 patients if the dentist:

16 (1) Maintains a properly equipped facility for the
 17 administration of inhalation analgesia as determined by the board;

18 (2) Is currently certified in basic life-support skills
 19 or the equivalent thereof; and

20 ~~(3)-(a)~~ (3) Has completed an approved two-day training
 21 course or equivalent training which may be acquired while studying
 22 at an accredited school or college of dentistry. ~~or (b) has been~~
 23 ~~administering inhalation analgesia on an outpatient basis in a~~
 24 ~~competent and efficient manner as determined by the board for~~
 25 ~~twelve months preceding October 1, 1988.~~

1 Sec. 475. Section 71-193.28, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-193.28~~ General anesthesia and parenteral sedation
4 shall not be administered by a dentist without the presence and
5 assistance of a licensed dental hygienist or a dental assistant.

6 Sec. 476. Section 71-193.33, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-193.33~~ Any person who assists a dentist in the
9 administration of general anesthesia, parenteral sedation, or
10 inhalation analgesia shall be currently certified in basic
11 life-support skills or the equivalent thereof.

12 Sec. 477. Section 71-193.30, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-193.30~~ Nothing in the Dental Anesthesia Dentistry
15 Practice Act shall be construed to allow a dentist to administer to
16 himself or herself, or to any person other than in the course of
17 the practice of dentistry, any drug or agent used for ~~anesthesia,~~
18 ~~analgesia, or sedation.~~ general anesthesia, parenteral sedation, or
19 inhalation analgesia.

20 Sec. 478. Section 71-193.31, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-193.31~~ (1) Permits issued by the board for the
23 administration of general anesthesia, parenteral sedation, or
24 inhalation analgesia pursuant to sections 71-193.26, 71-193.27,
25 and 71-193.29 the Dentistry Practice Act shall be valid for four

1 ~~years. until March 1 of the next odd-numbered year after issuance,~~
2 ~~except that permits issued or renewed prior to March 1, 2007, shall~~
3 ~~expire March 1, 2009.~~

4 (2) The department, ~~upon~~ with the recommendation of
5 the board, shall adopt and promulgate rules and regulations to
6 define criteria for the reevaluation of credentials, facilities,
7 equipment, dental hygienists, and dental assistants and procedures
8 of a previously qualified dentist to renew his or her permit for
9 each ~~additional four-year period.~~ subsequent renewal.

10 Sec. 479. Section 71-193.32, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-193.32~~ All practice locations of a dentist applying
13 for a permit ~~pursuant to sections 71-193.26, 71-193.27, and~~
14 ~~71-193.29~~ to administer general anesthesia, parenteral sedation,
15 or inhalation analgesia may be inspected at the discretion of the
16 board. The board may contract to have such inspections performed.
17 The board shall not delegate authority to review and to make
18 recommendations on permit applications or to determine the persons
19 or facilities to be inspected.

20 Sec. 480. Section 71-193.34, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-193.34~~ (1) All licensed dentists practicing in this
23 state shall submit a report to the board within thirty days
24 of any incident which results in death or physical or mental
25 injury requiring hospitalization of a patient which occurs in

1 the outpatient facilities of such dentist during, or as a direct
2 result of, inhalation analgesia, parenteral sedation, or general
3 anesthesia.

4 (2) The incident report shall include, but not be limited
5 to:

6 (a) A description of the dental procedure;

7 (b) A description of the preoperative physical condition
8 of the patient;

9 (c) A list of the drugs and the dosage administered;

10 (d) A detailed description of the techniques used in
11 administering the drugs;

12 (e) A description of the incident, including, but not
13 limited to, a detailed description of the symptoms of any
14 complications, the symptoms of onset, and the type of symptoms
15 in the patient;

16 (f) A description of the treatment instituted;

17 (g) A description of the patient's response to the
18 treatment; and

19 (h) A description of the patient's condition on
20 termination of any procedures undertaken.

21 (3) Failure to submit an incident report as required by
22 this section shall result in the loss of the permit.

23 Sec. 481. Section 71-193.35, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-193.35~~ The department, ~~upon~~ with the recommendation of

1 the board, may adopt and promulgate rules and regulations necessary
2 to carry out the ~~Dental Anesthesia Act~~, provisions of the Dentistry
3 Practice Act relating to permits to administer general anesthesia,
4 parenteral sedation, or inhalation analgesia.

5 Sec. 482. Section 71-193.01, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-193.01~~ There is hereby established the Office of Oral
8 Health and Dentistry in the ~~Department of Health and Human Services~~
9 ~~Regulation and Licensure~~, department. The head of such office shall
10 be known as the Dental Health Director and shall be appointed by
11 the department. The Dental Health Director shall give full time to
12 his or her duties.

13 Sec. 483. Section 71-193.02, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~71-193.02~~ The Dental Health Director shall be a graduate
16 of an ~~approved~~ accredited school or college of dentistry and shall
17 be licensed by the State of Nebraska to practice dentistry in
18 Nebraska or duly licensed to practice dentistry in some other state
19 of the United States of America.

20 Sec. 484. Section 71-193.03, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 ~~71-193.03~~ The duties of the Office of Oral Health and
23 Dentistry shall be the promotion and development of activities
24 which will result in the practice and improvement of the dental
25 health of the people of the state under rules and regulations

1 adopted and promulgated by the department.

2 Sec. 485. Section 71-5172, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~71-5172~~ Sections ~~71-5172 to 71-51,100~~ 485 to 521 of this
5 act shall be known and may be cited as the Emergency Medical
6 Services Practice Act.

7 Sec. 486. Section 71-5173, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-5173~~ It is the intent of the Legislature in enacting
10 the Emergency Medical Services Practice Act to (1) effectuate
11 the delivery of quality out-of-hospital emergency medical care in
12 the state, (2) eliminate duplication of statutory requirements,
13 (3) merge the former boards responsible for regulating ambulance
14 services and emergency medical care, (4) replace the former law
15 regulating providers of and services delivering emergency medical
16 care, (5) provide for the appropriate ~~certification~~ licensure of
17 persons providing out-of-hospital medical care and licensure of
18 organizations providing emergency medical services, (6) provide
19 for the establishment of educational requirements and permitted
20 practices for persons providing out-of-hospital emergency medical
21 care, (7) provide a system for regulation of out-of-hospital
22 emergency medical care which encourages out-of-hospital emergency
23 care providers and emergency medical services to provide the
24 highest degree of care which they are capable of providing, and (8)
25 provide a flexible system for the regulation of out-of-hospital

1 emergency care providers and emergency medical services that
2 protects public health and safety.

3 The act shall be liberally construed to effect the
4 purposes of, carry out the intent of, and discharge the
5 responsibilities prescribed in the act.

6 Sec. 487. Section 71-5174, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-5174~~ The Legislature finds:

9 (1) That out-of-hospital emergency medical care is a
10 primary and essential health care service and that the presence
11 of an adequately equipped ambulance and trained out-of-hospital
12 emergency care providers may be the difference between life and
13 death or permanent disability to those persons in Nebraska making
14 use of such services in an emergency;

15 (2) That effective delivery of out-of-hospital emergency
16 medical care may be assisted by a program of training and
17 ~~certification~~ licensure of out-of-hospital emergency care providers
18 and licensure of emergency medical services in accordance with
19 rules and regulations ~~approved~~ adopted by the Board of ~~Emergency~~
20 ~~Medical Services~~, board;

21 (3) That the Emergency Medical Services Practice Act is
22 essential to aid in advancing the quality of care being provided by
23 out-of-hospital emergency care providers and by emergency medical
24 services and the provision of effective, practical, and economical
25 delivery of out-of-hospital emergency medical care in the State of

1 Nebraska;

2 (4) That the services to be delivered by out-of-hospital
3 emergency care providers are complex and demanding and that
4 training and other requirements appropriate for delivery of the
5 services must be constantly reviewed and updated; and

6 (5) That the enactment of a regulatory system that can
7 respond to changing needs of patients and out-of-hospital emergency
8 care providers and emergency medical services is in the best
9 interests of the citizens of Nebraska.

10 Sec. 488. Section 71-5175, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-5175~~ For purposes of the Emergency Medical Services
13 Practice Act and elsewhere in the Uniform Credentialing Act, unless
14 the context otherwise requires, the definitions found in sections
15 489 to 498 of this act apply. +

16 ~~(1) Ambulance means any privately or publicly owned motor~~
17 ~~vehicle or aircraft that is especially designed, constructed or~~
18 ~~modified, and equipped and is intended to be used and is maintained~~
19 ~~or operated for the overland or air transportation of patients~~
20 ~~upon the streets, roads, highways, airspace, or public ways in this~~
21 ~~state, including funeral coaches or hearses, or any other motor~~
22 ~~vehicles or aircraft used for such purposes;~~

23 ~~(2) Board means the Board of Emergency Medical Services;~~

24 ~~(3) Department means the Department of Health and Human~~
25 ~~Services Regulation and Licensure;~~

1 ~~(4) Emergency medical service means the organization~~
2 ~~responding to a perceived individual need for immediate medical~~
3 ~~care in order to prevent loss of life or aggravation of~~
4 ~~physiological or psychological illness or injury;~~

5 ~~(5) Out-of-hospital emergency care provider includes~~
6 ~~all certification classifications of emergency care providers~~
7 ~~established pursuant to the act;~~

8 ~~(6) Patient means an individual who either identifies~~
9 ~~himself or herself as being in need of medical attention or upon~~
10 ~~assessment by an out-of-hospital emergency care provider has an~~
11 ~~injury or illness requiring treatment;~~

12 ~~(7) Person means an individual, firm, partnership,~~
13 ~~limited liability company, corporation, company, association, or~~
14 ~~joint-stock company or association or group of individuals acting~~
15 ~~together for a common purpose and includes the State of Nebraska~~
16 ~~and any agency or political subdivision of the state;~~

17 ~~(8) Physician medical director means a qualified~~
18 ~~physician who is responsible for the medical supervision of~~
19 ~~out-of-hospital emergency care providers and verification of skill~~
20 ~~proficiency of out-of-hospital emergency care providers pursuant~~
21 ~~to section 71-5178;~~

22 ~~(9) Protocol means a set of written policies,~~
23 ~~procedures, and directions from a physician medical director to~~
24 ~~an out-of-hospital emergency care provider concerning the medical~~
25 ~~procedures to be performed in specific situations;~~

1 ~~(10) Qualified physician means an individual who is~~
2 ~~licensed to practice medicine and surgery pursuant to sections~~
3 ~~71-1,102 to 71-1,107.14 or osteopathic medicine and surgery~~
4 ~~pursuant to sections 71-1,137 to 71-1,141 and meets any other~~
5 ~~requirements established by rule and regulation.~~

6 ~~(11) Qualified physician surrogate means a qualified,~~
7 ~~trained medical person designated by a qualified physician in~~
8 ~~writing to act as an agent for the physician in directing~~
9 ~~the actions or recertification of out-of-hospital emergency care~~
10 ~~providers, and~~

11 ~~(12) Standing order means a direct order from the~~
12 ~~physician medical director to perform certain tasks for a patient~~
13 ~~under a specific set of circumstances.~~

14 Sec. 489. Ambulance means any privately or publicly owned
15 motor vehicle or aircraft that is especially designed, constructed
16 or modified, and equipped and is intended to be used and is
17 maintained or operated for the overland or air transportation of
18 patients upon the streets, roads, highways, airspace, or public
19 ways in this state, including funeral coaches or hearses, or any
20 other motor vehicles or aircraft used for such purposes.

21 Sec. 490. Board means the Board of Emergency Medical
22 Services.

23 Sec. 491. Emergency medical service means the
24 organization responding to a perceived individual need for
25 immediate medical care in order to prevent loss of life or

1 aggravation of physiological or psychological illness or injury.

2 Sec. 492. Out-of-hospital emergency care provider
3 includes all licensure classifications of emergency care providers
4 established pursuant to the Emergency Medical Services Practice
5 Act.

6 Sec. 493. Patient means an individual who either
7 identifies himself or herself as being in need of medical attention
8 or upon assessment by an out-of-hospital emergency care provider
9 has an injury or illness requiring treatment.

10 Sec. 494. Physician medical director means a qualified
11 physician who is responsible for the medical supervision of
12 out-of-hospital emergency care providers and verification of skill
13 proficiency of out-of-hospital emergency care providers pursuant to
14 section 501 of this act.

15 Sec. 495. Protocol means a set of written policies,
16 procedures, and directions from a physician medical director to
17 an out-of-hospital emergency care provider concerning the medical
18 procedures to be performed in specific situations.

19 Sec. 496. Qualified physician means an individual who is
20 licensed to practice medicine and surgery or osteopathic medicine
21 and surgery pursuant to the Uniform Credentialing Act and meets any
22 other requirements established by rule and regulation.

23 Sec. 497. Qualified physician surrogate means a
24 qualified, trained medical person designated by a qualified
25 physician in writing to act as an agent for the physician in

1 directing the actions or renewal of licensure of out-of-hospital
2 emergency care providers.

3 Sec. 498. Standing order means a direct order from the
4 physician medical director to perform certain tasks for a patient
5 under a specific set of circumstances.

6 Sec. 499. Section 71-5176, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 ~~71-5176~~ (1) ~~The Board of Emergency Medical Services is~~
9 ~~established.~~ The board shall have seventeen members appointed by
10 the Governor with the approval of a majority of the Legislature.
11 The appointees may begin to serve immediately following appointment
12 and prior to approval by the Legislature.

13 (2) (a) Seven members of the Board of Emergency Medical
14 Services shall be active out-of-hospital emergency care providers
15 at the time of and for the duration of their appointment, and each
16 shall have at least five years of experience in his or her level
17 of ~~certification~~ licensure at the time of his or her appointment
18 or reappointment. Two of the seven members who are out-of-hospital
19 emergency care providers shall be first responders, two shall
20 be emergency medical technicians, one shall be an emergency
21 medical technician-intermediate, and two shall be emergency medical
22 technicians-paramedic.

23 (b) Three of the members shall be qualified physicians
24 actively involved in emergency medical care. At least one of the
25 physician members shall be a ~~board-certified surgeon,~~ and at least

1 ~~one of the physician members shall~~ be a board-certified emergency
2 physician.

3 (c) Five members shall be appointed to include one
4 member who is a representative of an approved training agency,
5 one member who is a physician assistant with at least five years
6 of experience and active in out-of-hospital emergency medical care
7 education, one member who is a registered nurse with at least
8 five years of experience and active in out-of-hospital emergency
9 medical care education, and two members who are consumers who have
10 been residents of the State of Nebraska for five years with public
11 members who meet the requirements of section 65 of this act and
12 who have an expressed interest in the provision of out-of-hospital
13 emergency medical care.

14 (d) The remaining two members shall have any of the
15 qualifications listed in subdivision (a), (b), or (c) of this
16 subsection.

17 (e) In addition to any other criteria for appointment,
18 among the members of the board there shall be at least one member
19 who is a volunteer emergency medical care provider, at least one
20 member who is a paid emergency medical care provider, at least
21 one member who is a firefighter, at least one member who is a
22 law enforcement officer, and at least one member who is active
23 in the Critical Incident Stress Management Program. If a person
24 appointed to the board is qualified to serve as a member in more
25 than one capacity, all qualifications of such person shall be taken

1 into consideration to determine whether or not the diversity in
2 qualifications required in this subsection has been met.

3 (f) At least five members of the board shall be appointed
4 from each congressional district, and at least one of such members
5 shall be a - ~~No more than one physician member shall reside in any~~
6 ~~single congressional district.~~ described in subdivision (b) of this
7 subsection.

8 (3) ~~The Governor shall make the initial appointments to~~
9 ~~the board within ninety days after September 13, 1997. Five of~~
10 ~~the initial members shall be appointed for terms of one year as~~
11 ~~determined by the Governor. Six of the initial members shall be~~
12 ~~appointed for terms of two years as determined by the Governor. Six~~
13 ~~of the initial members shall be appointed for terms of three years~~
14 ~~as determined by the Governor. After the initial appointments, all~~
15 ~~members shall serve three-year terms.~~ Members shall serve five-year
16 terms beginning on December 1 and may serve for any number of such
17 terms. The terms of the members of the board appointed prior to the
18 operative date of this section shall be extended by two years and
19 until December 1 of such year. Each member shall hold office until
20 the expiration of his or her term. Any vacancy in membership, other
21 than by expiration of a term, shall be filled within ninety days by
22 the Governor by appointment as provided in subsection (2) of this
23 section.

24 ~~(4) Members of the board shall be reimbursed for their~~
25 ~~actual and necessary expenses as provided in sections 81-1174 to~~

1 ~~81-1177.~~

2 ~~(4) (5)~~ The board shall meet within ninety days after the
3 appointment of the initial members and shall meet at least once
4 each year thereafter. Special meetings of the board may be called
5 by the department or upon the written request of any six members
6 of the board explaining the reason for such meeting. The place of
7 the meetings shall be set by the department. At the first meeting
8 of the board, such officers as the board deems necessary shall
9 be elected. A majority of the members shall constitute a quorum
10 for the transaction of business. Every act of the majority of the
11 members of the board present at a meeting of the board shall be
12 deemed to be the act of the board. The board shall comply with the
13 Open Meetings Act.

14 ~~(6)~~ The department shall adopt and promulgate rules and
15 regulations which establish definitions of conflicts of interest
16 for members of the board and which establish procedures for
17 resolution of conflicts of interest.

18 ~~(7)~~ (5) The Governor upon recommendation of the
19 department shall have power to remove from office at any time any
20 member of the board for physical or mental incapacity to carry out
21 the duties of a board member, for continued neglect of duty, for
22 incompetency, for acting beyond the individual member's scope of
23 authority, for malfeasance in office, for any cause for which a
24 professional license or certificate credential may be suspended or
25 revoked pursuant to the Uniform Licensing Law, Credentialing Act,

1 or for a lack of license ~~or certificate~~ required by the Emergency
2 Medical Services Practice Act.

3 ~~(8)~~ (6) Except as provided in subsection ~~(7)~~ (5) of
4 this section and notwithstanding subsection (2) of this section,
5 a member of the board who changes his or her ~~certification~~
6 licensure classification after appointment when such ~~certification~~
7 licensure classification was a qualification for appointment shall
8 be permitted to continue to serve as a member of the board until
9 the expiration of his or her term.

10 Sec. 500. Section 71-5177, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-5177~~ In addition to any other responsibilities
13 prescribed by the Emergency Medical Services Practice Act, the
14 board shall:

15 (1) Promote the dissemination of public information and
16 education programs to inform the public about out-of-hospital
17 emergency medical care and other out-of-hospital medical
18 information, including appropriate methods of medical self-help,
19 first aid, and the availability of out-of-hospital emergency
20 medical services training programs in the state;

21 (2) Provide for the collection of information for
22 evaluation of the availability and quality of out-of-hospital
23 emergency medical care, evaluate the availability and quality
24 of out-of-hospital emergency medical care, and serve as a focal
25 point for discussion of the provision of out-of-hospital emergency

1 medical care;

2 (3) Review and comment on all state agency proposals
3 and applications that seek funding for out-of-hospital emergency
4 medical care;

5 (4) Establish model procedures for patient management in
6 out-of-hospital medical emergencies that do not limit the authority
7 of law enforcement and fire protection personnel to manage the
8 scene during an out-of-hospital medical emergency;

9 (5) Not less than once each five years, undertake a
10 review and evaluation of the act and its implementation together
11 with a review of the out-of-hospital emergency medical care needs
12 of the citizens of the State of Nebraska and report to the
13 Legislature any recommendations which it may have; and

14 (6) Identify communication needs of emergency
15 medical services and make recommendations for development
16 of a communications plan for a communications network for
17 out-of-hospital emergency care providers and emergency medical
18 services.

19 Sec. 501. Section 71-5178, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~71-5178 The department, with the approval of the board,~~
22 shall adopt and promulgate rules and regulations necessary to:

23 ~~(1) Implement the Emergency Medical Services Act;~~

24 ~~(2) (1) Create the following certification licensure~~
25 classifications of out-of-hospital emergency care providers:

1 (a) First responder; (b) emergency medical technician; (c)
2 emergency medical technician-intermediate; and (d) emergency
3 medical technician-paramedic. The rules and regulations
4 creating the classifications shall include the practices and
5 procedures authorized for each classification, training and
6 testing requirements, ~~recertification~~ renewal and reinstatement
7 requirements, and other criteria and qualifications for each
8 classification determined to be necessary for protection of public
9 health and safety;

10 ~~(3) Provide for curricula which will allow~~
11 ~~out-of-hospital emergency care providers and users of automated~~
12 ~~external defibrillators as defined in section 71-51,102 to be~~
13 ~~trained for the delivery of practices and procedures in units of~~
14 ~~limited subject matter which will encourage continued development~~
15 ~~of abilities and use of such abilities through additional~~
16 ~~authorized practices and procedures;~~

17 ~~(4) Establish procedures and requirements for~~
18 ~~applications for examination, certification, or recertification in~~
19 ~~any of the certification classifications created pursuant to the~~
20 ~~Emergency Medical Services Act;~~

21 ~~(5) Provide~~ (2) Set standards for the licensure of
22 basic life support services and advanced life support services.
23 The rules and regulations providing for licensure shall include
24 standards and requirements for: Vehicles, equipment, maintenance,
25 sanitation, inspections, personnel, training, medical direction,

1 records maintenance, practices and procedures to be provided by
2 employees or members of each classification of service, and other
3 criteria for licensure established by the department with the
4 approval of the board;

5 ~~(6)~~ (3) Authorize emergency medical services to
6 provide differing practices and procedures depending upon the
7 qualifications of out-of-hospital emergency care providers
8 available at the time of service delivery. No emergency medical
9 service shall be licensed to provide practices or procedures
10 without the use of personnel ~~certified~~ licensed to provide the
11 practices or procedures;

12 ~~(7)~~ (4) Authorize out-of-hospital emergency care
13 providers to perform any practice or procedure which they are
14 authorized to perform with an emergency medical service other than
15 the service with which they are affiliated when requested by the
16 other service and when the patient for whom they are to render
17 services is in danger of loss of life;

18 ~~(8)~~ (5) Provide for the approval, inspection, review,
19 and termination of approval of training agencies and establish
20 minimum standards for services provided by training agencies; ~~-~~ All
21 training for certification shall be provided through an approved or
22 accredited training agency;

23 ~~(9)~~ (6) Provide for the minimum qualifications of a
24 physician medical director in addition to the licensure required by
25 subdivision ~~(10)~~ of section 71-5175; section 496 of this act;

1 ~~(10)~~ (7) Provide for the use of physician medical
2 directors, qualified physician surrogates, model protocols,
3 standing orders, operating procedures, and guidelines which
4 may be necessary or appropriate to carry out the purposes of
5 the ~~act.~~ Emergency Medical Services Practice Act. The model
6 protocols, standing orders, operating procedures, and guidelines
7 may be modified by the physician medical director for use by
8 any out-of-hospital emergency care provider or emergency medical
9 service before or after adoption;

10 ~~(11)~~ (8) Establish criteria for approval of organizations
11 issuing cardiopulmonary resuscitation certification which shall
12 include criteria for instructors, establishment of certification
13 periods and minimum curricula, and other aspects of training and
14 certification;

15 ~~(12)~~ (9) Establish ~~recertification and renewal and~~
16 reinstatement requirements for out-of-hospital emergency care
17 providers and emergency medical services and ~~adopt and promulgate~~
18 ~~rules and regulations to~~ establish continuing competency
19 requirements, as ~~approved by the board.~~ Continuing education
20 is sufficient to meet continuing competency requirements. The
21 requirements may also include, but not be limited to, one or more
22 of the continuing competency activities listed in section ~~71-161.09~~
23 45 of this act which a ~~certified~~ licensed person may select
24 as an alternative to continuing education. The ~~recertification~~
25 reinstatement requirements for out-of-hospital emergency care

1 providers shall allow ~~recertification~~ reinstatement at the same
2 or any lower level of ~~certification~~ licensure for which the
3 out-of-hospital emergency care provider is determined to be
4 qualified;

5 ~~(13)~~ (10) Establish criteria for deployment and use of
6 automated external defibrillators as necessary for the protection
7 of the public health and safety;

8 ~~(14)~~ (11) Create ~~certification, recertification, and~~
9 ~~renewal~~ licensure, renewal, and reinstatement requirements
10 for emergency medical service instructors. The rules and
11 regulations shall include the practices and procedures for
12 ~~certification, recertification, and renewal;~~ licensure, renewal,
13 and reinstatement; and

14 ~~(15)~~ (12) Establish criteria for emergency
15 medical technicians-intermediate and emergency medical
16 technicians-paramedic performing activities within their scope of
17 practice at a hospital or health clinic under subsection (3) of
18 section ~~71-5184.~~ 508 of this act. Such criteria shall include,
19 but not be limited to: (a) Requirements for the orientation of
20 registered nurses, physician assistants, and physicians involved
21 in the supervision of such personnel; (b) supervisory and training
22 requirements for the physician medical director or other person in
23 charge of the medical staff at such hospital or health clinic; and
24 (c) a requirement that such activities shall only be performed
25 at the discretion of, and with the approval of, the governing

1 authority of such hospital or health clinic. For purposes of this
2 subdivision, health clinic has the definition found in section
3 71-416 and hospital has the definition found in section 71-419.

4 ~~All certificates and licenses issued under the act shall~~
5 ~~expire at midnight on December 31 the third year after issuance.~~

6 Sec. 502. Section 71-5179, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-5179~~ (1) The Legislature adopts all parts of
9 the United States Department of Transportation curricula,
10 including appendices, and skills as the training requirements and
11 permitted practices and procedures for the ~~certification~~ licensure
12 classifications listed in subdivision ~~(2)~~ (1) of section ~~71-5178~~
13 501 of this act until modified by rule and regulation.

14 (2) The department and the board shall consider the
15 following factors, in addition to other factors required or
16 permitted by the Emergency Medical Services Practice Act, when
17 adopting rules and regulations for a ~~certification~~ licensure
18 classification:

19 (a) Whether the initial training required for
20 ~~certification~~ licensure in the classification is sufficient to
21 enable the out-of-hospital emergency care provider to perform the
22 practices and procedures authorized for the classification in a
23 manner which is beneficial to the patient and protects public
24 health and safety;

25 (b) Whether the practices and procedures to be authorized

1 are necessary to the efficient and effective delivery of
2 out-of-hospital emergency medical care;

3 (c) Whether morbidity can be reduced or recovery enhanced
4 by the use of the practices and procedures to be authorized for the
5 classification; and

6 (d) Whether continuing competency requirements
7 are sufficient to maintain the skills authorized for the
8 classification.

9 Sec. 503. The department, with the recommendation of the
10 board, shall adopt and promulgate rules and regulations necessary
11 to:

12 (1) Administer the Emergency Medical Services Practice
13 Act;

14 (2) Provide for curricula which will allow
15 out-of-hospital emergency care providers and users of automated
16 external defibrillators as defined in section 71-51,102 to be
17 trained for the delivery of practices and procedures in units of
18 limited subject matter which will encourage continued development
19 of abilities and use of such abilities through additional
20 authorized practices and procedures;

21 (3) Establish procedures and requirements for
22 applications for licensure, renewal, and reinstatement in
23 any of the licensure classifications created pursuant to the
24 Emergency Medical Services Practice Act; and

25 (4) Provide for the inspection, review, and termination

1 of approval of training agencies. All training for licensure shall
2 be provided through an approved training agency.

3 Sec. 504. Section 71-5191, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-5191~~ The following are exempt from the licensing
6 ~~and certification~~ requirements of the Emergency Medical Services
7 Practice Act:

8 (1) The occasional use of a vehicle or aircraft not
9 designated as an ambulance and not ordinarily used in transporting
10 patients or operating emergency care, rescue, or resuscitation
11 services;

12 (2) Vehicles or aircraft rendering services as an
13 ambulance in case of a major catastrophe or emergency when licensed
14 ambulances based in the localities of the catastrophe or emergency
15 are incapable of rendering the services required;

16 (3) Ambulances from another state which are operated from
17 a location or headquarters outside of this state in order to
18 transport patients across state lines, but no such ambulance shall
19 be used to pick up patients within this state for transportation to
20 locations within this state except in case of an emergency;

21 (4) Ambulances or emergency vehicles owned and operated
22 by an agency of the United States Government and the personnel of
23 such agency;

24 (5) Except for the provisions of section ~~71-5194~~, 516
25 of this act, physicians, physician assistants, registered nurses,

1 licensed practical nurses, or advanced practice registered nurses,
2 who hold current Nebraska licenses and are exclusively engaged in
3 the practice of their respective professions; and

4 (6) Persons authorized to perform out-of-hospital
5 emergency care in other states when incidentally working in
6 Nebraska in response to an emergency situation; and -

7 (7) Students under the supervision of a licensed
8 out-of-hospital emergency care provider performing emergency
9 medical services that are an integral part of the training provided
10 by an approved training agency.

11 Sec. 505. (1) To be eligible for a license under the
12 Emergency Medical Services Practice Act, an individual shall have
13 attained the age of eighteen years and met the requirements
14 established in accordance with subdivision (1) of section 501 of
15 this act.

16 (2) All licenses issued under the act shall expire the
17 second year after issuance.

18 (3) An individual holding a certificate under the
19 Emergency Medical Services Act on December 1, 2008, shall be deemed
20 to be holding a license under the Uniform Credentialing Act and
21 the Emergency Medical Services Practice Act on such date. The
22 certificate holder may continue to practice under such certificate
23 as a license in accordance with the Uniform Credentialing Act until
24 the certificate would have expired under its terms.

25 Sec. 506. Section 71-5181.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-5181.01~~ The department shall establish and collect
3 fees for credentialing activities under the Emergency Medical
4 Services Practice Act as provided in ~~section 71-162~~, sections 51 to
5 57 of this act.

6 Sec. 507. Section 71-5183, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-5183~~ Each licensed emergency medical service shall
9 have a physician medical director. ~~by July 1, 1998.~~

10 Sec. 508. Section 71-5184, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-5184~~ (1) An out-of-hospital emergency care provider
13 other than a first responder as classified under section ~~71-5178~~
14 501 of this act may not assume the duties incident to the title or
15 practice the skills of an out-of-hospital emergency care provider
16 unless he or she is employed by or serving as a volunteer member of
17 an emergency medical service licensed by the department.

18 (2) An out-of-hospital emergency care provider may only
19 practice the skills he or she is authorized to employ and which are
20 covered by the ~~certificate~~ license issued to such provider pursuant
21 to ~~section 71-5181~~, the Emergency Medical Services Practice Act.

22 (3) An emergency medical technician-intermediate or an
23 emergency medical technician-paramedic may volunteer or be employed
24 at a hospital as defined in section 71-419 or a health clinic
25 as defined in section 71-416 to perform activities within his

1 or her scope of practice within such hospital or health clinic
2 under the supervision of a registered nurse, a physician assistant,
3 or a physician. Such activities shall be performed in a manner
4 established in rules and regulations adopted and promulgated by the
5 department, ~~with approval~~ the recommendation of the board.

6 Sec. 509. Section 71-5185, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-5185~~ (1) No patient data received or recorded by an
9 emergency medical service or an out-of-hospital emergency care
10 provider shall be divulged, made public, or released by an
11 emergency medical service or an out-of-hospital emergency care
12 provider, except that patient data may be released to the receiving
13 health care facility, to the department for public health purposes,
14 upon the written authorization of the patient who is the subject of
15 the record, or as otherwise permitted by law. For purposes of this
16 section, patient data means any data received or recorded as part
17 of the records maintenance requirements of the Emergency Medical
18 Services Practice Act.

19 (2) Patient data received by the department shall
20 be confidential with release only (a) in aggregate data
21 reports created by the department on a periodic basis or
22 at the request of an individual or (b) as case-specific
23 data to approved researchers for specific research projects.
24 Approved researchers shall maintain the confidentiality of the
25 data, and researchers shall be approved in the same manner

1 as described in section 81-666. Aggregate reports shall be
2 public documents. Emergency-medical-service-specific data and
3 out-of-hospital-emergency-care-provider-specific data shall be
4 released only upon the written authorization of the service or the
5 provider who is the subject of the record.

6 (3) No civil or criminal liability of any kind or
7 character for damages or other relief or penalty shall arise or
8 be enforced against any person or organization by reason of having
9 provided patient data pursuant to this section.

10 Sec. 510. Section 71-5186, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-5186~~ No ambulance shall transport any patient upon
13 any street, road, highway, airspace, or public way in the State
14 of Nebraska unless such ambulance, when so transporting patients,
15 is occupied by at least one ~~certified~~ licensed out-of-hospital
16 emergency care provider. Such requirement shall be met if any of
17 the individuals providing the service is a licensed physician,
18 registered nurse, licensed physician assistant, or licensed
19 practical nurse functioning within the scope of practice of his or
20 her license.

21 Sec. 511. Section 71-5187, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-5187~~ The driver of a licensed motor vehicle ambulance
24 who holds a valid driver's license issued by the state of his or
25 her residence may exercise the privileges set forth in Nebraska

1 statutes relating to emergency vehicles when responding to an
2 emergency call or while transporting a patient.

3 Sec. 512. Section 71-5188, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-5188~~ The department, with the approval of the board,
6 may, whenever it deems appropriate, waive any rule, regulation, or
7 standard relating to the licensure of emergency medical services or
8 ~~certification of~~ out-of-hospital emergency care providers when the
9 lack of a licensed emergency medical service in a municipality or
10 other area will create an undue hardship in the municipality or
11 other area in meeting the emergency medical service needs of the
12 people thereof.

13 Sec. 513. Section 71-5189, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-5189~~ The department may issue a certificate for
16 ~~out-of-hospital emergency care providers without examination to~~
17 ~~any person who holds a current certificate or license as an~~
18 ~~out-of-hospital emergency care provider, or its equivalent, from~~
19 ~~another jurisdiction if the department, with the approval of the~~
20 ~~board, finds that the standards for certification or licensure in~~
21 ~~such other jurisdiction are at least the substantial equivalent of~~
22 ~~those prevailing in this state.~~ The department, with the approval
23 recommendation of the board, may issue a certificate license to any
24 individual who has a current certificate from the National Registry
25 of Emergency Medical Technicians. The level of such ~~certification~~

1 licensure shall be determined by ~~the department with the approval~~
2 ~~of~~ the board.

3 Sec. 514. Section 71-5190, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-5190~~ A license issued under the Emergency Medical
6 Services Practice Act shall not be sold, transferred, or assigned
7 by the holder. Any change of ownership of an emergency medical
8 service requires a new application and a new license.

9 Sec. 515. Section 71-5193, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-5193~~ The Emergency Medical Services Practice Act or
12 the rules or regulations shall not be construed to authorize or
13 require giving any medical treatment to a person who objects to
14 such treatment on religious or other grounds or to authorize the
15 transportation of such person to a medical facility.

16 Sec. 516. Section 71-5194, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-5194~~ (1) No out-of-hospital emergency care provider,
19 physician assistant, registered nurse, or licensed practical nurse
20 who provides public emergency care shall be liable in any civil
21 action to respond in damages as a result of his or her acts
22 of commission or omission arising out of and in the course of
23 his or her rendering in good faith any such care. Nothing in
24 this subsection shall be deemed to grant any such immunity for
25 liability arising out of the operation of any motor vehicle,

1 aircraft, or boat or while such person was impaired by alcoholic
2 liquor or any controlled substance enumerated in section 28-405 in
3 connection with such care, nor shall immunity apply to any person
4 causing damage or injury by his or her willful, wanton, or grossly
5 negligent act of commission or omission.

6 (2) No qualified physician or qualified physician
7 surrogate who gives orders, either orally or by communication
8 equipment, to any out-of-hospital emergency care provider at
9 the scene of an emergency, no out-of-hospital emergency care
10 provider following such orders within the limits of his or her
11 ~~certification,~~ licensure, and no out-of-hospital emergency care
12 provider trainee in an approved training program following such
13 orders, shall be liable civilly or criminally by reason of having
14 issued or followed such orders but shall be subject to the rules
15 of law applicable to negligence.

16 (3) No physician medical director shall incur any
17 liability by reason of his or her use of any unmodified protocol,
18 standing order, operating procedure, or guideline provided by the
19 board pursuant to subdivision ~~(10)~~ (7) of section ~~71-5178.~~ 501 of
20 this act.

21 Sec. 517. Section 71-5195, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-5195~~ No out-of-hospital emergency care provider shall
24 be subject to civil liability based solely upon failure to obtain
25 consent in rendering emergency medical, surgical, hospital, or

1 health services to any individual regardless of age when the
2 patient is unable to give his or her consent for any reason
3 and there is no other person reasonably available who is legally
4 authorized to consent to the providing of such care.

5 Sec. 518. Section 71-5196, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-5196~~ No act of commission or omission of any
8 out-of-hospital emergency care provider while rendering emergency
9 medical care within the limits of his or her ~~certification~~
10 licensure or status as a trainee to a person who is deemed by
11 the provider to be in immediate danger of injury or loss of life
12 shall impose any liability on any other person, and this section
13 shall not relieve the out-of-hospital emergency care provider from
14 personal liability, if any.

15 Sec. 519. Section 71-5197, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-5197~~ The department may accept from any person, in
18 the name of and for the state, services, equipment, supplies,
19 materials, or funds by way of bequest, gift, or grant for the
20 purposes of promoting emergency medical care. Any such funds
21 received shall be remitted to ~~the state treasury and shall be~~
22 ~~credited by~~ the State Treasurer for credit to the Department of
23 Health and Human Services Regulation and Licensure Cash Fund.

24 Sec. 520. Section 71-5198, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-5198~~ The provisions of the Emergency Medical Services
2 Practice Act shall not be construed to supersede, limit, or
3 otherwise affect the state emergency management laws or any
4 interstate civil defense compact participated in by the State of
5 Nebraska dealing with the licenses for professional, mechanical, or
6 other skills of persons performing emergency management functions.

7 Sec. 521. Section 71-5199, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-5199~~ It shall be unlawful for any person who has not
10 been ~~certified~~ licensed pursuant to the Emergency Medical Services
11 Practice Act to hold himself or herself out as an out-of-hospital
12 emergency care provider, to use any other term to indicate or imply
13 that he or she is an out-of-hospital emergency care provider, or to
14 act as such a provider without a ~~certificate~~ license therefor. It
15 shall be unlawful for any person to operate a training agency for
16 the initial training or ~~recertification~~ renewal or reinstatement
17 of licensure of out-of-hospital emergency care providers unless
18 the training agency is approved pursuant to rules and regulations
19 of the board. It shall be unlawful for any person to operate
20 an emergency medical service unless such service is licensed. ~~Any~~
21 ~~person who violates any provision of this section shall be guilty~~
22 ~~of a Class I misdemeanor.~~

23 Sec. 522. Sections 522 to 536 of this act shall be known
24 and may be cited as the Environmental Health Specialists Practice
25 Act.

1 Sec. 523. Section 71-3702, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-3702~~ For purposes of ~~sections 71-3702 to 71-3715,~~ the
4 Environmental Health Specialists Practice Act and elsewhere in the
5 Uniform Credentialing Act, unless the context otherwise requires,
6 the definitions found in sections 524 to 527 of this act apply. †

7 ~~(1) Board shall mean the Board of Registration for~~
8 ~~Environmental Health Specialists;~~

9 ~~(2) Environmental health specialist shall mean a person~~
10 ~~who by education and experience in the physical, biological,~~
11 ~~and sanitary sciences is qualified to carry out educational,~~
12 ~~investigational, and technical duties in the field of environmental~~
13 ~~sanitation;~~

14 ~~(3) Registered environmental health specialist shall~~
15 ~~mean a person who has the educational requirements and has had~~
16 ~~experience in the field of environmental sanitation required by~~
17 ~~section 71-3703 and is registered in accordance with sections~~
18 ~~71-3702 to 71-3715;~~

19 ~~(4) Trainee shall mean a person who is qualified by~~
20 ~~education but does not have at least one full year of experience~~
21 ~~in the field of environmental sanitation and is registered in~~
22 ~~accordance with sections 71-3702 to 71-3715;~~

23 ~~(5) Certificate of registration shall mean a document~~
24 ~~issued as evidence of registration and qualification to~~
25 ~~practice as an environmental health specialist or trainee under~~

1 sections 71-3702 to 71-3715, bearing the designation Registered
2 Environmental Health Specialist or Trainee, and showing the name of
3 the person, date of issue, serial number, seal, and signatures of
4 the members of the board authorized to grant such certificates, and

5 ~~(6) Department shall mean the Department of Health and
6 Human Services Regulation and Licensure.~~

7 Sec. 524. Board means the Board of Registered
8 Environmental Health Specialists.

9 Sec. 525. Environmental health specialist means a person
10 who by education and experience in the physical, biological,
11 and sanitary sciences is qualified to carry out educational,
12 investigational, and technical duties in the field of environmental
13 sanitation.

14 Sec. 526. Provisional environmental health specialist
15 means a person who is qualified by education but does not have at
16 least two full years of experience in the field of environmental
17 sanitation and is certified in accordance with the Environmental
18 Health Specialists Practice Act.

19 Sec. 527. Registered environmental health specialist
20 means a person who has the educational requirements and has
21 had experience in the field of environmental sanitation required by
22 section 529 of this act and is certified in accordance with the
23 Environmental Health Specialists Practice Act.

24 Sec. 528. Section 71-3706, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-3706~~ The Board of Registration for Environmental
2 Health Specialists board shall consist of six members. One member
3 shall be a public member who meets the requirements of section 65
4 of this act. ~~appointed by the State Board of Health.~~ One member
5 shall be a layperson who is at least the age of majority, who has
6 been a resident of the state for at least five years immediately
7 preceding appointment, and who is a representative of consumer
8 viewpoints. Each of the other members shall have been engaged
9 in environmental health for at least ten years, shall have had
10 responsible charge of work for at least five years at the time of
11 his or her appointment, and shall be a registered environmental
12 health specialist. At the expiration of the three-year terms of the
13 members serving on December 1, 2008, successors shall be appointed
14 for five-year terms. Each member of the Board of Registration
15 for Environmental Health Specialists shall receive as compensation
16 not more than twenty-five dollars per day for each day actually
17 spent in traveling to and from and while attending sessions of the
18 board and its committees, and each member shall also receive the
19 necessary expenses incident to the performance of his or her duties
20 as provided by sections 81-1174 to 81-1177 and subject to section
21 71-3708.01.

22 The Department of Health and Human Services Regulation
23 and Licensure shall adopt and promulgate rules and regulations
24 which establish definitions of conflicts of interest for members
25 of the board and which establish procedures in the case such a

1 ~~conflict arises.~~

2 Sec. 529. Section 71-3703, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~71-3703~~ Any person desiring to be registered as an
5 environmental health specialist may make application to the board
6 on a form prescribed by the board. The application shall include
7 the applicant's social security number. The board shall accept
8 such application when submitted if accompanied by the required
9 fees established and collected as provided in section 71-162. A
10 person shall be eligible for registration under sections 71-3702
11 ~~to 71-3715~~ certification as an environmental health specialist if
12 he or she has graduated with a baccalaureate or higher degree from
13 an accredited college or university, has satisfactorily completed
14 at least forty-five quarter hours or thirty semester hours of
15 academic work in the basic natural sciences, has been employed
16 full time as an environmental health specialist for a period not
17 less than ~~one year,~~ two years, and has passed an examination ~~given~~
18 ~~and conducted~~ approved by the board, ~~under section 71-3705,~~ except
19 that a person holding a degree higher than a baccalaureate degree
20 who has satisfactorily completed at least forty-five quarter hours
21 or thirty semester hours of academic work in the basic natural
22 sciences may qualify when employed as an environmental health
23 specialist for a period of not less than ~~six months.~~ one year.

24 Sec. 530. Section 71-3704, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-3704~~ Any person meeting the educational qualifications
2 of section ~~71-3703~~ 529 of this act but who does not meet the
3 experience requirements of such section may make application ~~to~~
4 ~~the board on a form prescribed by the board for registration for~~
5 certification as a trainee. The board shall accept such application
6 when submitted if accompanied by the required fees. provisional
7 environmental health specialist.

8 Sec. 531. Section 71-3710, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-3710 (1)~~ The board shall prescribe and provide an
11 application form for the use of all applicants. Applicants
12 for registration as environmental health specialists and for
13 registration as trainees shall submit fees for credentialing
14 activities as provided in section ~~71-162~~.

15 A registered environmental health specialist may renew
16 his or her registration by paying the renewal fee as provided
17 in section ~~71-162~~. Such fee shall be due and payable on or
18 before January 1 of each odd-numbered year for which a renewal
19 registration is issued. All registrations shall expire on December
20 31 of each even-numbered year. Procedures for renewal shall be in
21 accordance with section ~~71-110~~.

22 (1) Certification as a registered environmental health
23 specialist shall expire biennially. Certification as a provisional
24 environmental health specialist shall be valid for one year and may
25 be renewed for two additional one-year periods. In no case shall

1 ~~registration certification~~ for a trainee provisional environmental
2 health specialist exceed a ~~two-year~~ three-year period.

3 (2) Each registered environmental health specialist ~~or~~
4 ~~trainee~~ in active practice in the state shall, ~~on or before~~
5 ~~December 31~~ of each ~~even-numbered year~~, complete continuing
6 competency activities as ~~required~~ approved by the board and adopted
7 and promulgated by the department in rules and regulations as
8 a prerequisite for the registrant's next subsequent biennial
9 ~~registration~~ renewal. Continuing education is sufficient to meet
10 continuing competency requirements. The requirements may also
11 include, but not be limited to, one or more of the continuing
12 competency activities listed in section ~~71-161.09~~ 45 of this act
13 which a ~~registrant~~ registered environmental health specialist may
14 select as an alternative to continuing education.

15 Each registered environmental health specialist and
16 ~~trainee~~ in active practice within the State of Nebraska shall, ~~on~~
17 ~~or before~~ December 31 of each even-numbered year, certify to the
18 department that he or she has complied with this subsection during
19 the preceding two-year period. Any registrant who has not complied
20 with such requirements shall not be issued a renewal registration
21 except if he or she is exempt as provided in subsection (3) of
22 this section. Procedures for nonrenewal of the registration of such
23 registrants shall be identical to those for nonpayment of renewal
24 fees as provided in sections 71-110 and 71-149. In cases other
25 than nonrenewal, the procedures in sections 71-149 and 71-150 for

1 ~~refusal to renew shall apply.~~

2 ~~(3) A registrant shall be exempt from the requirements of~~
3 ~~subsection (2) of this section if he or she:~~

4 ~~(a) Holds a Nebraska certificate of registration but is~~
5 ~~not practicing as a registered environmental health specialist or~~
6 ~~registered trainee in Nebraska;~~

7 ~~(b) Serves in the regular armed forces of the United~~
8 ~~States during any part of the twenty-four months immediately~~
9 ~~preceding the biennial certificate of registration renewal date;~~

10 ~~(c) Attends a college, university, or other institution~~
11 ~~of higher education for a residence period of time in excess of~~
12 ~~eight months during any part of the twenty-four months immediately~~
13 ~~preceding the biennial certificate of registration renewal date;~~

14 ~~(d) Submits proof that he or she was suffering from a~~
15 ~~serious or disabling illness or physical disability during the~~
16 ~~twenty-four months immediately preceding the biennial certificate~~
17 ~~of registration renewal date which prevented his or her completion~~
18 ~~of continuing competency requirements established by the board;~~

19 ~~(e) Had first registered within the twenty-four months~~
20 ~~immediately preceding the biennial certificate of registration~~
21 ~~renewal date; or~~

22 ~~(f) Is a registered environmental health specialist in~~
23 ~~good standing with the board who has completely retired from the~~
24 ~~active practice of environmental sanitation.~~

25 Sec. 532. An applicant for certification as a registered

1 environmental health specialist who has met the education and
2 examination requirements in section 529 of this act, who passed the
3 examination more than three years prior to the time of application
4 for certification, and who is not practicing at the time of
5 application for certification shall present proof satisfactory
6 to the department that he or she has within the three years
7 immediately preceding the application for certification completed
8 continuing competency requirements approved by the board pursuant
9 to section 45 of this act.

10 Sec. 533. An applicant for certification as a registered
11 environmental health specialist who has met the standards set by
12 the board pursuant to section 26 of this act for a license based on
13 licensure in another jurisdiction but is not practicing at the time
14 of application for certification shall present proof satisfactory
15 to the department that he or she has within the three years
16 immediately preceding the application for certification completed
17 continuing competency requirements approved by the board pursuant
18 to section 45 of this act.

19 Sec. 534. The department shall establish and collect
20 fees for credentialing under the Environmental Health Specialists
21 Practice Act as provided in sections 51 to 57 of this act.

22 Sec. 535. Section 71-3713, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-3713~~ Only a person ~~who has qualified as a registered~~
25 ~~environmental health specialist~~ and who holds a valid current

1 ~~registration~~ certificate for use in this state shall have the right
2 and privilege of using the title Registered Environmental Health
3 Specialist and to use the abbreviation R.E.H.S. after his or her
4 name.

5 Sec. 536. Section 71-3714, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-3714~~ It shall be unlawful for any person to represent
8 himself or herself as a registered environmental health specialist
9 without being duly ~~registered~~ certified and the holder of a
10 currently valid certificate ~~of registration~~ issued by the ~~board~~
11 department. An individual holding a certificate of registration as
12 a registered environmental health specialist on December 1, 2008,
13 shall be deemed to be certified as a registered environmental
14 health specialist on such date. An individual holding a certificate
15 of registration as a trainee on December 1, 2008, shall be deemed
16 to be certified as a provisional environmental health specialist on
17 such date.

18 Sec. 537. Sections 537 to 564 of this act shall be known
19 and may be cited as the Funeral Directing and Embalming Practice
20 Act.

21 Sec. 538. Section 71-1301, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-1301~~ For purposes of ~~sections 71-1301 to 71-1306 and~~
24 ~~71-1326 to 71-1354,~~ the Funeral Directing and Embalming Practice
25 Act and elsewhere in the Uniform Credentialing Act, unless the

1 context otherwise requires, the definitions found in sections 539
2 to 549 of this act apply. +

3 ~~(1) Accredited school of mortuary science means a school~~
4 ~~of the same type as those rated Class A by the Conference of~~
5 ~~Funeral Service Examining Boards of the United States, Inc.,~~
6 ~~approved by the department upon recommendation of the board;~~

7 ~~(2) Apprentice means a person registered with the~~
8 ~~department as an apprentice who is completing a twelve-month~~
9 ~~apprenticeship under the supervision of a licensed funeral director~~
10 ~~and embalmer practicing in the State of Nebraska. The licensed~~
11 ~~funeral director and embalmer is responsible for all funeral~~
12 ~~assists and embalmings completed by the apprentice;~~

13 ~~(3) Board means the Board of Funeral Directing and~~
14 ~~Embalming;~~

15 ~~(4) Branch establishment means a place of business~~
16 ~~situated at a specific street address or location which is a~~
17 ~~subsidiary of a licensed funeral establishment, which contains a~~
18 ~~casket display room, a viewing area, or an area for conducting~~
19 ~~funeral services, or all of them, and where any portion of the~~
20 ~~funeral service or arrangements for the disposition of a dead human~~
21 ~~body is conducted;~~

22 ~~(5) Casket means a receptacle for a dead human body and~~
23 ~~does not include vaults, lawn crypts, mausoleums, or other outside~~
24 ~~receptacles for caskets;~~

25 ~~(6) Crematory authority means the legal entity subject to~~

1 licensure by the department to maintain and operate a crematory and
2 perform cremation;

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

5 ~~(8) Embalming means the practice of preparing a dead
6 human body for burial or other final disposal by a licensed funeral
7 director and embalmer or an apprentice, requesting and obtaining
8 burial or removal permits, or assuming any of the other duties
9 incident to the practice of embalming. Any person who publicly
10 professes to be a funeral director and embalmer or an apprentice is
11 deemed to be practicing embalming. The performance of the following
12 acts is also deemed to be the practice of embalming: (a) The
13 disinfection and preservation of dead human beings, entire or in
14 part; and (b) the attempted disinfection and preservation thereof
15 by the use or application of chemical substances, fluids, or gases
16 ordinarily used, prepared, or intended for such purposes, either by
17 outward application of such chemical substances, fluids, or gases
18 on the body or by introducing them into the body, by vascular or
19 hypodermic injection, or by direct introduction into the organs or
20 cavities;~~

21 ~~(9) Funeral directing means (a) counseling families or
22 next of kin in regard to the conduct of a funeral service for a
23 dead human body for burial, disposition, or cremation or directing
24 or supervising burial, disposition, or cremation of dead human
25 bodies, (b) providing for or maintaining a funeral establishment,~~

1 or ~~(e)~~ the act of representing oneself as or using in connection
2 with one's name the title of funeral director, mortician, or any
3 other title implying that he or she is engaged in the business of
4 funeral directing;

5 ~~(10)~~ Funeral establishment means a place of business
6 situated at a specific street address or location devoted to the
7 care and preparation of dead human bodies for burial, disposition,
8 or cremation or to conducting or arranging funeral services for
9 dead human bodies;

10 ~~(11)~~ Licensee means a person licensed by the department
11 as a funeral director and embalmer on or after January 1, 1994,
12 or a person licensed as a funeral director or embalmer prior to
13 January 1, 1994;

14 ~~(12)~~ Licensure examination means a national standardized
15 examination, the state jurisprudence examination, and the vital
16 statistic forms examination; and

17 ~~(13)~~ Supervision means the direct oversight or the easy
18 availability of the supervising funeral director and embalmer. The
19 first twenty-five funeral assists and embalmings shall be completed
20 under direct onsite supervision of the supervising funeral director
21 and embalmer.

22 Sec. 539. Accredited school of mortuary science means a
23 school of the same type as those rated Class A by the Conference
24 of Funeral Service Examining Boards of the United States, Inc.,
25 approved by the board.

1 Sec. 540. Apprentice means a person registered with
2 the department as an apprentice who is completing a twelve-month
3 apprenticeship under the supervision of a licensed funeral director
4 and embalmer practicing in the State of Nebraska. The licensed
5 funeral director and embalmer is responsible for all funeral
6 assists and embalmings completed by the apprentice.

7 Sec. 541. Board means the Board of Funeral Directing and
8 Embalming.

9 Sec. 542. Branch establishment means a place of business
10 situated at a specific street address or location which is a
11 subsidiary of a licensed funeral establishment, which contains a
12 casket display room, a viewing area, or an area for conducting
13 funeral services, or all of them, and where any portion of the
14 funeral service or arrangements for the disposition of a dead human
15 body is conducted.

16 Sec. 543. Casket means a receptacle for a dead human
17 body and does not include vaults, lawn crypts, mausoleums, or other
18 outside receptacles for caskets.

19 Sec. 544. Crematory authority means the legal entity
20 subject to licensure by the department to maintain and operate a
21 crematory and perform cremation.

22 Sec. 545. (1) Embalming means the practice of preparing a
23 dead human body for burial or other final disposal by a licensed
24 funeral director and embalmer or an apprentice, requesting and
25 obtaining burial or removal permits, or assuming any of the other

1 duties incident to the practice of embalming.

2 (2) Any person who publicly professes to be a funeral
3 director and embalmer or an apprentice is deemed to be practicing
4 embalming.

5 (3) The performance of the following acts is also
6 deemed to be the practice of embalming: (a) The disinfection
7 and preservation of dead human beings, entire or in part; and (b)
8 the attempted disinfection and preservation thereof by the use or
9 application of chemical substances, fluids, or gases ordinarily
10 used, prepared, or intended for such purposes, either by outward
11 application of such chemical substances, fluids, or gases on
12 the body or by introducing them into the body, by vascular or
13 hypodermic injection, or by direct introduction into the organs or
14 cavities.

15 Sec. 546. Funeral directing means (1) counseling families
16 or next of kin in regard to the conduct of a funeral service for a
17 dead human body for burial, disposition, or cremation or directing
18 or supervising burial, disposition, or cremation of dead human
19 bodies, (2) providing for or maintaining a funeral establishment,
20 or (3) the act of representing oneself as or using in connection
21 with one's name the title of funeral director, mortician, or any
22 other title implying that he or she is engaged in the business of
23 funeral directing.

24 Sec. 547. Funeral establishment means a place of business
25 situated at a specific street address or location devoted to the

1 care and preparation of dead human bodies for burial, disposition,
2 or cremation or to conducting or arranging funeral services for
3 dead human bodies.

4 Sec. 548. Licensure examination means a national
5 standardized examination, the state jurisprudence examination, and
6 the vital statistic forms examination.

7 Sec. 549. Supervision means the direct oversight or the
8 easy availability of the supervising funeral director and embalmer.
9 The first twenty-five funeral assists and embalmings shall be
10 completed under direct onsite supervision of the supervising
11 funeral director and embalmer.

12 Sec. 550. Section 71-1302, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-1302~~ (1) ~~On~~ and after January 1, 1994, the The
15 department shall issue a single license to practice funeral
16 directing and embalming to applicants who meet the requirements
17 of this section. An applicant for a license as a funeral director
18 and embalmer shall file with the department an application upon a
19 form prepared by the department and shall:

20 (a) Present satisfactory proof that the applicant has
21 earned the equivalent of sixty semester hours of college credit in
22 addition to a full course of instruction in an accredited school
23 of mortuary science. Such hours shall include the equivalent of
24 (i) six semester hours of English, (ii) six semester hours of
25 accounting, (iii) eight semester hours of chemistry, (iv) twelve

1 semester hours of a biological science relating to the human body,
2 and (v) six semester hours of psychology or counseling; and

3 (b) Present proof to the department that he or she has
4 completed the following training:

5 (i) A full course of instruction in an accredited school
6 of mortuary science;

7 (ii) A twelve-month apprenticeship under the supervision
8 of a licensed funeral director and embalmer practicing in the
9 State of Nebraska, which apprenticeship shall consist of arterially
10 embalming twenty-five bodies and assisting with twenty-five
11 funerals; and

12 (iii) Successful completion of the licensure examination
13 approved by the board.

14 (2) Any person holding a valid license as an embalmer
15 on January 1, 1994, may continue to provide services as an
16 embalmer after such date. Upon expiration of such valid license,
17 the licensee person may apply for renewal thereof, and the
18 department ~~on the recommendation of the board~~ shall renew such
19 license to practice embalming. ~~The recommendation of the board, the~~
20 ~~application, and the renewal fee shall be based on the requirements~~
21 ~~for renewal of such license in existence immediately prior to~~
22 ~~January 1, 1994.~~

23 (3) Any person holding a valid license as a funeral
24 director on January 1, 1994, may continue to provide services as
25 a funeral director after such date. Upon expiration of such valid

1 license, the licensee person may apply for renewal thereof, and
2 the department ~~on the recommendation of the board~~ shall renew such
3 license to practice funeral directing. ~~The recommendation of the~~
4 ~~board, the application, and the renewal fee shall be based on the~~
5 ~~requirements for renewal of such license in existence immediately~~
6 ~~prior to January 1, 1994.~~

7 ~~(4) The department on the recommendation of the board~~
8 ~~shall issue a single license to practice funeral directing and~~
9 ~~embalming to a person holding a valid license as an embalmer~~
10 ~~and a valid license as a funeral director on January 1, 1994,~~
11 ~~when such valid licenses expire. A licensee desiring to obtain a~~
12 ~~license under this subsection shall apply on forms prescribed by~~
13 ~~the department and pay a fee equal to the renewal fee for such~~
14 ~~license established by the department.~~

15 Sec. 551. Section 71-1303, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-1303~~ When the applicant has satisfied the department
18 that he or she either has completed a full course of instruction in
19 an accredited school of mortuary science or has completed all but
20 the final semester of such course, the applicant shall be eligible
21 to take the national standardized examination. The applicant shall
22 pass such examination before beginning his or her twelve-month
23 apprenticeship or the final six months thereof. When the applicant
24 has satisfied the department that he or she has the qualifications
25 specified in section ~~71-1304,~~ 552 of this act, he or she shall be

1 eligible to take the state jurisprudence and vital statistic forms
2 examination. A grade of seventy-five or above on each part of the
3 licensure examination shall be a passing grade.

4 Sec. 552. Section 71-1304, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-1304~~ (1) Before beginning an apprenticeship, an
7 applicant shall ~~register with the department on a form provided~~
8 ~~by the department for that purpose.~~ apply for an apprentice
9 license. The applicant shall show that he or she has completed
10 thirty-nine of the sixty hours required in subdivision (1)(a) of
11 section ~~71-1302.~~ 550 of this act. The applicant may complete the
12 twelve-month apprenticeship in either a split apprenticeship or a
13 full apprenticeship as provided in this section.

14 (2) A split apprenticeship shall be completed in the
15 following manner:

16 (a) ~~Registration with the department~~ Application for an
17 apprentice license to complete a six-month apprenticeship prior
18 to attending an accredited school of mortuary science, which
19 ~~registration license~~ shall be valid for six months from the date of
20 issuance and shall not be extended by the board. The apprenticeship
21 shall be completed over a continuous six-month period;

22 (b) ~~successful~~ Successful completion of a full course of
23 study in an accredited school of mortuary science;

24 (c) ~~successful~~ Successful passage of the national
25 standardized examination; and

1 (d) ~~registration with the department~~ Application for an
2 apprentice license to complete the final six-month apprenticeship,
3 which ~~registration license~~ shall be valid for six months from
4 the date of issuance and shall not be extended by the board.
5 The apprenticeship shall be completed over a continuous six-month
6 period.

7 (3) A full apprenticeship shall be completed in the
8 following manner:

9 (a) Successful completion of a full course of study in an
10 accredited school of mortuary science;

11 (b) ~~successful~~ Successful passage of the national
12 standardized examination; and

13 (c) ~~registration with the department~~ Application for an
14 apprentice license to complete a twelve-month apprenticeship. This
15 ~~registration license~~ shall be valid for twelve months from the
16 date of issuance and shall not be extended by the board. The
17 apprenticeship shall be completed over a continuous twelve-month
18 period.

19 (4) An individual registered as an apprentice on December
20 1, 2008, shall be deemed to be licensed as an apprentice for the
21 term of the apprenticeship on such date. ~~The department may, on~~
22 ~~the recommendation of the board, adopt and promulgate rules and~~
23 ~~regulations for apprentices in funeral directing and embalming.~~

24 Sec. 553. Section 71-1305, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-1305~~ The board shall have the privileges extended to
2 them for the use of bodies for dissection, demonstrating, and
3 teaching under the requirements of the State Anatomical Board for
4 the distribution and delivery of dead human bodies.

5 Sec. 554. Section 71-1306, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-1306~~ The finding of chemical substances, fluids, or
8 gases ordinarily used in embalming or any trace thereof in a dead
9 human body, the use of which is prohibited except by a licensed
10 funeral director and embalmer, or the placing thereof upon a dead
11 human body by other than a licensed funeral director and embalmer
12 shall constitute prima facie evidence of the violation of ~~sections~~
13 ~~71-1301 to 71-1306.~~ the Funeral Directing and Embalming Practice
14 Act.

15 Sec. 555. Section 71-1327, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-1327~~ (1) ~~The application for an initial funeral~~
18 ~~establishment license shall be in writing and verified on a form~~
19 ~~provided by the department.~~ In order for a funeral establishment
20 to be licensed, it shall employ as its manager a licensed funeral
21 director and embalmer who shall be responsible for all transactions
22 conducted in the funeral establishment, except that any person
23 holding a valid license as a funeral director ~~on December 31, 1993,~~
24 may serve as a manager of a funeral establishment. The manager
25 shall maintain and operate the funeral establishment in accordance

1 with all laws, rules, and regulations relating thereto.

2 (2) A license to operate a funeral establishment may be
3 granted by the department upon the recommendation of the board.
4 If the applicant for a funeral establishment license proposes to
5 operate more than one establishment, a separate application and fee
6 shall be required for each location.

7 (3) A funeral establishment desiring to relocate shall
8 make application ~~therefor on a form provided by~~ to the department
9 at least thirty days prior to the designated date of such change
10 in location. ~~The application for relocation shall be accompanied by~~
11 ~~the required fee.~~

12 (4) A funeral establishment desiring to change its
13 manager shall make application ~~on a form provided by~~ to the
14 department at least fifteen days prior to the designated date of
15 such change, except that in the case of death of a manager, the
16 application shall be made immediately following such death. ~~The~~
17 ~~application shall be accompanied by the required fee.~~ No license
18 shall be issued under this subsection by the department until the
19 original license has been surrendered.

20 (5) A funeral establishment desiring to change its name
21 shall request such change ~~on a form provided by~~ to the department
22 at least thirty days prior to the designated change in name.

23 Sec. 556. Section 71-1327.01, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-1327.01~~ (1) The application for an initial branch

1 establishment license shall be in writing on a form provided by the
2 department.

3 ~~(2)~~ A license to operate a branch establishment may be
4 granted by the department upon the recommendation of the board.

5 (1) If the applicant for a branch establishment license proposes to
6 operate more than one branch establishment, a separate application
7 and fee shall be required for each location.

8 ~~(3)~~ (2) A branch establishment desiring to relocate shall
9 make application therefor on a form provided by to the department
10 at least thirty days prior to the designated date of such change
11 in location. ~~The application for relocation shall be accompanied by~~
12 ~~the required fee.~~

13 ~~(4)~~ (3) A branch establishment desiring to change its
14 manager shall make application on a form provided by to the
15 department at least fifteen days prior to the designated date of
16 such change, except that in the case of death of the manager,
17 the establishment shall make application immediately after such
18 death. ~~The application shall be accompanied by the required fee.~~
19 No license shall be issued by the department under this subsection
20 until the original license has been surrendered.

21 ~~(5)~~ (4) A branch establishment desiring to change its
22 name shall ~~request such change on a form provided by~~ apply to the
23 department at least thirty days prior to the designated change in
24 name.

25 Sec. 557. The department, with the recommendation of

1 the board, may issue a license based on licensure in another
2 jurisdiction to an individual who meets the requirements of the
3 Funeral Directing and Embalming Practice Act or substantially
4 equivalent requirements as determined by the department, with the
5 recommendation of the board.

6 Sec. 558. The department shall establish and collect
7 fees for credentialing under the Funeral Directing and Embalming
8 Practice Act as provided in sections 51 to 57 of this act.

9 Sec. 559. Section 71-1331, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-1331 (1) Every licensed funeral establishment and~~
12 ~~branch establishment shall pay biennially a fee for the renewal~~
13 ~~of its license. All renewal fees shall become due and payable on~~
14 ~~February 1 of each even-numbered year. Renewals shall be processed~~
15 ~~in accordance with section 71-110.(2) Any person, partnership,~~
16 ~~limited liability company, firm, corporation, association, or other~~
17 ~~organization which (a) (1) without having complied with sections~~
18 ~~71-1301 to 71-1354 the Funeral Directing and Embalming Practice~~
19 ~~Act and without having first obtained a license (i) (a) engages~~
20 ~~directly or indirectly in the business of funeral directing and~~
21 ~~embalming, (ii) (b) holds himself, herself, or itself out to the~~
22 ~~public as a funeral director and embalmer, or (iii) (c) performs or~~
23 ~~attempts to perform any of the services of a funeral establishment~~
24 ~~or branch establishment or of a funeral director and embalmer~~
25 ~~relating to the disposition of dead human bodies or (b) (2)~~

1 continues to perform such services after the license has expired
2 or has been revoked or suspended shall be guilty of a Class III
3 misdemeanor and shall be dealt with in the same manner as outlined
4 in section ~~71-167.~~ 118 of this act. Each day so engaged in such
5 business shall constitute and be deemed a separate offense.

6 Sec. 560. Section 71-1333, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-1333 (1) The department may deny, refuse renewal of,~~
9 ~~revoke, limit, suspend, or take other disciplinary measures against~~
10 ~~a license or an application for a license to practice funeral~~
11 ~~directing and embalming pursuant to section 71-155 if the applicant~~
12 ~~or licensee is found guilty of any of the acts or offenses~~
13 ~~specified in sections 71-147 and 71-148 or~~ In addition to the
14 grounds for disciplinary action found in sections 78 and 79 of this
15 act, a credential issued under the Funeral Directing and Embalming
16 Practice Act may be denied, refused renewal, limited, revoked,
17 or suspended or have other disciplinary measures taken against it
18 in accordance with section 96 of this act when the applicant or
19 credential holder is found guilty of any of the following acts or
20 offenses:

21 (a) Solicitation of dead human bodies by the licensee
22 credential holder or his or her agents, assistants, or employees,
23 either prior to or following death;

24 (b) ~~the~~ The purchasing of funeral or embalming
25 engagements or the payment of a commission either directly or

1 indirectly or offer of payment of such commission to any agent,
2 assistant, or employee for the purpose of securing business;

3 (c) ~~using~~ Using indecent, profane, or obscene language in
4 the presence of a dead human body or within the immediate presence
5 or hearing of the family, relatives, or friends of the deceased
6 prior to the burial of the deceased;

7 (d) ~~soliciting~~ Soliciting or accepting any remuneration,
8 commission, bonus, or rebate in consideration of the recommending
9 or causing a dead human body to be placed in any crematory,
10 mausoleum, or cemetery;

11 (e) ~~using~~ Using any casket or part thereof which has
12 previously been used as a receptacle for, or in connection with,
13 the shipment, burial, or other disposition of a dead human body
14 without first identifying such item as used;

15 (f) ~~violations~~ Violations of any state law, municipal
16 ordinance, or rule or regulation of the department or other body
17 having regulatory powers, relating to the handling, custody, care,
18 or transportation of dead human bodies;

19 (g) ~~refusal~~ Refusal to surrender promptly the custody of
20 a dead human body upon request of a person or persons lawfully
21 entitled to the custody thereof; or

22 (h) ~~taking~~ Taking undue advantage of a patron or patrons,
23 or being found guilty of fraud, or misrepresentation in the selling
24 of merchandise or service to patrons.

25 (2) An applicant or a ~~licensee~~ credential holder shall be

1 subject to the penalty provisions of this section if found guilty
2 of any of the following:

3 (a) Paying, directly or indirectly, any money or other
4 thing of value as a commission or gratuity for the securing of
5 business;

6 (b) ~~the~~ The buying of a business of any person, firm, or
7 corporation, or the paying of a commission to any person, firm,
8 or corporation or to any hospital or any institution where death
9 occurs or to any hospital superintendent, nurse, intern, or other
10 employee, whether directly or indirectly; or

11 (c) ~~willful~~ Willful malpractice.

12 (3) Any funeral director and embalmer who commits any
13 of the acts or things prohibited by this section or otherwise
14 violates any of the provisions thereof shall be guilty of a Class
15 II misdemeanor.

16 ~~(3)~~ (4) Nothing in this section shall be construed to
17 prohibit a licensed funeral director and embalmer from engaging in
18 sales of funeral goods or services under the Burial Pre-Need Sale
19 Act.

20 Sec. 561. Section 71-1339, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-1339~~ (1) Except as otherwise provided in section
23 71-20,121, the right to control the disposition of the remains of a
24 deceased person, except in the case of a minor subject to section
25 23-1824 and unless other directions have been given by the decedent

1 in the form of a testamentary disposition or a pre-need contract,
2 vests in the following persons in the order named:

3 ~~(1)~~ (a) Any person authorized to direct the disposition
4 of the decedent's body pursuant to a notarized affidavit
5 authorizing such disposition and signed and sworn to by the
6 decedent. Such an affidavit shall be sufficient legal authority for
7 authorizing disposition without additional authorization from the
8 decedent, the decedent's family, or the decedent's estate. Such
9 person shall not be considered an attorney in fact pursuant to
10 sections 30-3401 to 30-3432;

11 ~~(2)~~ (b) The surviving spouse of the decedent;

12 ~~(3)~~ (c) If the surviving spouse is incompetent or not
13 available or if there is no surviving spouse, the decedent's
14 surviving adult children. If there is more than one adult child,
15 any adult child, after confirmation in writing of the notification
16 of all other adult children, may direct the manner of disposition
17 unless the funeral establishment or crematory authority receives
18 written objection to the manner of disposition from another adult
19 child;

20 ~~(4)~~ (d) The decedent's surviving parents;

21 ~~(5)~~ (e) The persons in the next degree of kinship under
22 the laws of descent and distribution to inherit the estate of the
23 decedent. If there is more than one person of the same degree, any
24 person of that degree may direct the manner of disposition;

25 ~~(6)~~ (f) A guardian of the person of the decedent at the

1 time of such person's death;

2 ~~(7)~~ (g) The personal representative of the decedent;

3 ~~(8)~~ (h) The State Anatomical Board or county board in the
4 case of an indigent person or any other person the disposition of
5 whose remains is the responsibility of the state or county; or

6 ~~(9)~~ (i) A representative of an entity described in
7 section ~~71-1340~~ 562 of this act that has arranged with the funeral
8 establishment or crematory authority to cremate a body part in the
9 case of body parts received from such entity described in section
10 ~~71-1340~~, 562 of this act.

11 (2) A funeral director, funeral establishment, crematory
12 authority, or crematory operator shall not be subject to criminal
13 prosecution or civil liability for carrying out the otherwise
14 lawful instructions of the person or persons described in this
15 section if the funeral director or crematory authority or operator
16 reasonably believes such person is entitled to control the final
17 disposition of the remains of the deceased person.

18 (3) The liability for the reasonable cost of the final
19 disposition of the remains of the deceased person devolves jointly
20 and severally upon all kin of the decedent in the same degree of
21 kindred and upon the estate of the decedent and, in cases when the
22 county board has the right to control disposition of the remains
23 under subdivision ~~(8)~~ (1)(h) of this section, upon the county in
24 which death occurred from funds available for such purpose.

25 Sec. 562. Section 71-1340, Reissue Revised Statutes of

1 Nebraska, as amended by section 467, Legislative Bill 296, One
2 Hundredth Legislature, First Session, 2007, is amended to read:

3 ~~71-1340~~ (1) A decedent, prior to his or her death, may
4 direct the preparation for the final disposition of his or her
5 remains by written instructions. If such instructions are in a will
6 or other written instrument, the decedent may direct that the whole
7 or any part of such remains be given to a teaching institution,
8 university, college, or legally licensed hospital, to the ~~Director~~
9 ~~of Public Health,~~ director, or to or for the use of any nonprofit
10 blood bank, artery bank, eye bank, or other therapeutic service
11 operated by any agency approved by the director under rules and
12 regulations established by the director. The person or persons
13 otherwise entitled to control the disposition of the remains under
14 this section shall faithfully carry out the directions of the
15 decedent.

16 (2) If such instructions are contained in a will or
17 other written instrument, they shall be immediately carried out,
18 regardless of the validity of the will in other respects or of the
19 fact that the will may not be offered for or admitted to probate
20 until a later date.

21 (3) This section shall be administered and construed to
22 the end that such expressed instructions of any person shall be
23 faithfully and promptly performed.

24 (4) A funeral director and embalmer, physician, or
25 cemetery authority shall not be liable to any person or persons for

1 carrying out such instructions of the decedent, and any teaching
2 institution, university, college, or legally licensed hospital or
3 the ~~Director of Public Health~~ director shall not be liable to any
4 person or persons for accepting the remains of any deceased person
5 under a will or other written instrument as set forth in this
6 section.

7 Sec. 563. Section 71-1341, Reissue Revised Statutes of
8 Nebraska, as amended by section 468, Legislative Bill 296, One
9 Hundredth Legislature, First Session, 2007, is amended to read:

10 ~~71-1341~~ A written authorization for an autopsy given
11 by the survivor or survivors, as enumerated in section ~~71-1339,~~
12 561 of this act, having the right to control the disposition of
13 remains may, subject to section 23-1824 and when not inconsistent
14 with any directions given by the decedent pursuant to section
15 ~~71-1340,~~ 562 of this act, include authorization for the removal
16 of any specifically named organ or organs for therapeutic or
17 scientific purposes. Pursuant to any such written authorization,
18 any structure or organ may be given to the ~~Director of Public~~
19 ~~Health~~ director or to any other therapeutic service operated by
20 any nonprofit agency approved by the director, including, but not
21 limited to, a teaching institution, university, college, legally
22 licensed hospital, nonprofit blood bank, nonprofit artery bank,
23 nonprofit eye bank, or nationally recognized nonprofit hormone and
24 pituitary program. The person or persons performing any autopsy
25 shall do so within a reasonable time and without delay and

1 shall not exceed the removal permission contained in such written
2 authorization, and the remains shall not be significantly altered
3 in external appearance nor shall any portion thereof be removed for
4 purposes other than those expressly permitted in this section.

5 Sec. 564. Section 71-1346, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-1346~~ A written statement, signed by the funeral
8 director and embalmer or legal representative, of all principal
9 services and furnishings to be supplied by the funeral director
10 and embalmer for the preparation and burial or cremation of
11 the deceased, together with the actual cost of the services
12 including the total actual costs, shall be given to the next of
13 kin or other person responsible for the making of the funeral
14 arrangements prior to the burial or disposition of the deceased.
15 For purposes of this section principal services shall include,
16 but not be limited to, the casket, outer receptacle, facilities
17 and equipment, professional services, nonlocal transportation,
18 clothing, an itemization of all cash advances, and sales tax.
19 A copy of such statement, signed by the person to whom it was
20 tendered, shall be retained in the records of the funeral director
21 and embalmer for a period of at least two years.

22 Sec. 565. Sections 565 to 582 of this act shall be known
23 and may be cited as the Hearing Aid Instrument Dispensers and
24 Fitters Practice Act.

25 Sec. 566. Section 71-4701, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-4701~~ As used in sections ~~71-4701~~ to ~~71-4719~~, For
3 purposes of the Hearing Aid Instrument Dispensers and Fitters
4 Practice Act and elsewhere in the Uniform Credentialing Act, unless
5 the context otherwise requires, the definitions found in sections
6 567 to 571 of this act apply. †

7 ~~(1) Department shall mean the Department of Health and~~
8 ~~Human Services Regulation and Licensure;~~

9 ~~(2) License shall mean a license issued by the state~~
10 ~~under such sections to hearing aid instrument dispensers and~~
11 ~~fitters;~~

12 ~~(3) Temporary license shall mean a license issued while~~
13 ~~the applicant is in training to become a licensed hearing aid~~
14 ~~instrument dispenser and fitter;~~

15 ~~(4) Board shall mean the Board of Hearing Aid Instrument~~
16 ~~Dispensers and Fitters;~~

17 ~~(5) Hearing aid shall mean any wearable instrument or~~
18 ~~device designed for or offered for the purpose of aiding or~~
19 ~~compensating for impaired human hearing and any parts, attachments,~~
20 ~~or accessories, including earmold, but excluding batteries and~~
21 ~~cords. A hearing aid shall also be known as a hearing instrument;~~

22 ~~(6) Practice of fitting hearing aids shall mean the~~
23 ~~measurement of human hearing by means of an audiometer or by~~
24 ~~other means approved by the board solely for the purpose of making~~
25 ~~selections, adaptations, or sale of hearing aids. The term also~~

1 includes the making of impressions for earmolds. A dispenser, at
2 the request of a physician or a member of related professions, may
3 make audiograms for the professional's use in consultation with the
4 hard-of-hearing, and

5 ~~(7) Sell, sale, or dispense shall mean any transfer of~~
6 title or of the right to use by lease, bailment, or any other
7 contract, excluding (a) wholesale transactions with distributors
8 or dispensers and (b) distribution of hearing aids by nonprofit
9 service organizations at no cost to the recipient for the hearing
10 aid.

11 Sec. 567. Board means the Board of Hearing Aid Instrument
12 Dispensers and Fitters.

13 Sec. 568. Hearing aid means any wearable instrument or
14 device designed for or offered for the purpose of aiding or
15 compensating for impaired human hearing and any parts, attachments,
16 or accessories, including earmold, but excluding batteries and
17 cords. A hearing aid shall also be known as a hearing instrument.

18 Sec. 569. Practice of fitting hearing aids means the
19 measurement of human hearing by means of an audiometer or by
20 other means approved by the board solely for the purpose of making
21 selections, adaptations, or sale of hearing aids. The term also
22 includes the making of impressions for earmolds. A dispenser, at
23 the request of a physician or a member of related professions, may
24 make audiograms for the professional's use in consultation with the
25 hard-of-hearing.

1 Sec. 570. Sell, sale, or dispense means any transfer of
2 title or of the right to use by lease, bailment, or any other
3 contract, excluding (1) wholesale transactions with distributors
4 or dispensers and (2) distribution of hearing aids by nonprofit
5 service organizations at no cost to the recipient for the hearing
6 aid.

7 Sec. 571. Temporary license means a license issued while
8 the applicant is in training to become a licensed hearing aid
9 instrument dispenser and fitter.

10 Sec. 572. Section 71-4715, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-4715 (1) There is hereby established a Board of~~
13 ~~Hearing Aid Instrument Dispensers and Fitters which shall guide,~~
14 ~~advise, and make recommendations to the department. (2) Members of~~
15 ~~the board shall be residents of the state. The board shall consist~~
16 ~~of five professional members and one public member appointed~~
17 ~~pursuant to section 58 of this act. The members shall meet the~~
18 ~~requirements of sections 64 and 65 of this act. The professional~~
19 ~~members shall consist of three hearing aid instrument dispensers~~
20 ~~and fitters, one otolaryngologist, and one audiologist. At the~~
21 ~~expiration of the four-year terms of the members serving on~~
22 ~~December 1, 2008, successors shall be appointed for five-year~~
23 ~~terms. 7 and one public member. Each hearing aid instrument~~
24 ~~dispenser and fitter on the board shall have not less than five~~
25 ~~years of experience and shall hold a valid license. The public~~

1 member shall be at least the age of majority, a resident of
2 this state at least five years preceding appointment, and a
3 representative of consumer viewpoints.

4 ~~(3) All members of the board shall be appointed by the~~
5 ~~State Board of Health. The term of office of each member shall be~~
6 ~~for four years, except that of the first members appointed under~~
7 ~~sections 71-4701 to 71-4719, two shall be appointed for two years,~~
8 ~~two shall be appointed for three years, and one shall be appointed~~
9 ~~for four years. The State Board of Health shall appoint the public~~
10 ~~member as of December 1, 1994, for a term of four years. Before a~~
11 ~~member's term expires, the State Board of Health shall appoint a~~
12 ~~successor to take office on the expiration of such term. A vacancy~~
13 ~~in the office of a member shall be filled by appointment for the~~
14 ~~unexpired term. The members shall annually designate one member to~~
15 ~~serve as chairperson and another to serve as secretary-treasurer.~~
16 ~~No member who has served two or more full terms may be reappointed~~
17 ~~to the Board of Hearing Aid Instrument Dispensers and Fitters until~~
18 ~~at least one year after the expiration of his or her most recent~~
19 ~~full term of office.~~

20 ~~(4) Members of the board shall receive for each day~~
21 ~~actually engaged in the duties of the office a per diem amount~~
22 ~~of twenty-five dollars and reimbursement for actual and necessary~~
23 ~~travel and other expenses as provided in sections 81-1174 to~~
24 ~~81-1177. Such remuneration and reimbursement shall be paid from~~
25 ~~appropriations made for this purpose.~~

1 ~~(5) The State Board of Health shall have power to remove~~
2 ~~from office at any time any member of the Board of Hearing~~
3 ~~Aid Instrument Dispensers and Fitters, after a public hearing~~
4 ~~pursuant to the Administrative Procedure Act, for physical or~~
5 ~~mental incapacity to carry out the duties of a board member, for~~
6 ~~continued neglect of duty, for incompetency, for acting beyond the~~
7 ~~individual member's scope of authority, for malfeasance in office,~~
8 ~~for any cause for which a license in the member's profession may~~
9 ~~be suspended or revoked, for a lack of licensure in the member's~~
10 ~~profession, or for other sufficient cause.~~

11 Sec. 573. Section 71-4702, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-4702~~ (1) No person shall engage in the sale of or
14 practice of fitting hearing aids or display a sign or in any
15 other way advertise or represent himself or herself as a person
16 who practices the fitting and sale or dispensing of hearing aids
17 unless he or she holds an unsuspended, unrevoked license issued
18 by the department as provided in sections ~~71-4701 to 71-4719~~. The
19 license shall be conspicuously posted in his or her office or place
20 of business. the Hearing Aid Instrument Dispensers and Fitters
21 Practice Act. A license shall confer upon the holder the right to
22 select, fit, and sell hearing aids.

23 (2) Nothing in such sections the act shall prohibit
24 a corporation, partnership, limited liability company, trust,
25 association, or other like organization maintaining an established

1 business address from engaging in the business of selling or
2 offering for sale hearing aids at retail without a license if
3 it employs only properly licensed natural persons in the direct
4 sale and fitting of such products. ~~Such corporation, partnership,~~
5 ~~limited liability company, trust, association, or like organization~~
6 ~~shall file annually with the board a list of all licensed hearing~~
7 ~~aid instrument dispensers and fitters directly or indirectly~~
8 ~~employed by it. Such corporation, partnership, limited liability~~
9 ~~company, trust, association, or like organization shall also file~~
10 ~~with the board a statement on a form approved by the board that~~
11 ~~it submits itself to the rules and regulations of the department~~
12 ~~and the provisions of such sections which the department deems~~
13 ~~applicable.~~

14 (3) Nothing in such sections the act shall prohibit
15 the holder of a license from the fitting and sale of wearable
16 instruments or devices designed for or offered for the purpose of
17 conservation or protection of hearing.

18 Sec. 574. Section 71-4704, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-4704 (1) Sections 71-4701 to 71-4719 are The Hearing~~
21 ~~Aid Instrument Dispensers and Fitters Practice Act is not intended~~
22 ~~to prevent any person from engaging in the practice of measuring~~
23 ~~human hearing for the purpose of selection of hearing aids if such~~
24 ~~person or organization employing such person does not sell hearing~~
25 ~~aids or accessories thereto.~~

1 (2) ~~Such sections~~ The act shall not apply to a person
2 who is a physician licensed to practice in this state, except that
3 such physician shall not delegate the authority to fit and dispense
4 hearing aids unless the person to whom the authority is delegated
5 is licensed under ~~such sections,~~ the act.

6 Sec. 575. Section 71-4703, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-4703~~ (1) Any person who practices the fitting and
9 sale of hearing aids shall deliver to each person supplied with a
10 hearing aid a receipt which shall contain the licensee's signature
11 and show his or her business address and the number of his or her
12 certificate, together with specifications as to the make and model
13 of the hearing aid furnished, and clearly stating the full terms
14 of sale. If an aid which is not new is sold, the receipt and the
15 container thereof shall be clearly marked as used or reconditioned,
16 whichever is applicable, with terms of guarantee, if any.

17 (2) Such receipt shall bear in no smaller type than
18 the largest used in the body copy portion the following: The
19 purchaser has been advised at the outset of his or her relationship
20 with the hearing aid instrument dispenser that any examination or
21 representation made by a licensed hearing aid instrument dispenser
22 and fitter in connection with the fitting and selling of this
23 hearing aid is not an examination, diagnosis, or prescription by
24 a person licensed to practice medicine in this state and therefor
25 must not be regarded as medical opinion or advice.

1 Sec. 576. Section 71-4707, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-4707~~ (1) Any person may obtain a license under the
4 Hearing Aid Instrument Dispensers and Fitters Practice Act by
5 successfully passing a qualifying examination if the applicant:

6 (a) Is at least twenty-one years of age; and

7 ~~(b) Is of good moral character;~~

8 ~~(c) (b) Has an education equivalent to a four-year course~~
9 in an accredited high school. and

10 ~~(d) Is free of contagious or infectious disease.~~

11 (2) ~~Each applicant for license by examination shall~~
12 ~~appear at a time and place and before such persons as the~~
13 ~~department may designate to be examined by means of written and~~
14 ~~practical tests in order to demonstrate that he or she is qualified~~
15 ~~to practice the fitting and sale of hearing aids.~~ The qualifying
16 examination shall consist of written and practical tests. The
17 examination shall not be conducted in such a manner that college
18 training is required in order to pass. Nothing in this examination
19 shall imply that the applicant is required to possess the degree of
20 medical competence normally expected of physicians.

21 (3) The department shall give examinations ~~as determined~~
22 approved by the board. A ~~except that~~ a minimum of two
23 examinations shall be offered each calendar year.

24 Sec. 577. Section 71-4708, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-4708~~ (1) The department, with the ~~upon~~ recommendation
2 of the board, shall issue a temporary license to any person who has
3 met the requirements for licensure pursuant to subsection (1) of
4 section ~~71-4707~~, 576 of this act. Previous experience or a waiting
5 period shall not be required to obtain a temporary license.

6 (2) Any person who desires a temporary license shall make
7 application to the department. ~~Such application shall include the~~
8 ~~applicant's social security number and shall be accompanied by the~~
9 ~~required fee~~. The temporary license shall be issued for a period of
10 one year. A person holding a valid license shall be responsible for
11 the supervision and training of such applicant and shall maintain
12 adequate personal contact with him or her.

13 (3) If a person who holds a temporary license under
14 this section has not successfully passed the licensing examination
15 within twelve months of the date of issuance of the temporary
16 license, the temporary license may be renewed or reissued for a
17 twelve-month period, ~~upon payment of the required fee~~. In no case
18 may a temporary license be renewed or reissued more than once. A
19 renewal or reissuance may take place any time after the expiration
20 of the first twelve-month period.

21 ~~(4) The department shall have the power to deny, revoke,~~
22 ~~limit, suspend, or otherwise discipline a temporary license upon~~
23 ~~the grounds and in accordance with the Uniform Licensing Law.~~

24 Sec. 578. Section 71-4709, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-4709~~ The qualifying examination provided in section
2 ~~71-4707~~ 576 of this act shall be designed to demonstrate the
3 applicant's adequate technical qualifications by:

4 (1) Tests of knowledge in the following areas as they
5 pertain to the fitting and sale of hearing aids:

6 (a) Basic physics of sound;

7 (b) The anatomy and physiology of the ear; and

8 (c) The function of hearing aids; and

9 (2) Practical tests of proficiency in the following
10 techniques as they pertain to the fitting of hearing aids:

11 (a) Pure tone audiometry, including air conduction
12 testing and bone conduction testing;

13 (b) Live voice or recorded voice speech audiometry;

14 (c) Masking when indicated;

15 (d) Recording and evaluation of audiograms and speech
16 audiometry to determine proper selection and adaptation of a
17 hearing aid; and

18 (e) Taking earmold impressions.

19 Sec. 579. An applicant for licensure to practice hearing
20 aid instrument dispensing and fitting who has met the education and
21 examination requirements in section 576 of this act, who passed the
22 examination more than three years prior to the time of application
23 for licensure, and who is not practicing at the time of application
24 for licensure shall present proof satisfactory to the department
25 that he or she has within the three years immediately preceding

1 the application for licensure completed continuing competency
2 requirements approved by the board pursuant to section 45 of
3 this act.

4 Sec. 580. An applicant for licensure to practice hearing
5 aid instrument dispensing and fitting who has met the standards
6 set by the board pursuant to section 26 of this act for a license
7 based on licensure in another jurisdiction but is not practicing
8 at the time of application for licensure shall present proof
9 satisfactory to the department that he or she has within the three
10 years immediately preceding the application for licensure completed
11 continuing competency requirements approved by the board pursuant
12 to section 45 of this act.

13 Sec. 581. Section 71-4712, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-4712 (1)~~ The department may deny, revoke, or suspend
16 any license to practice as a hearing aid instrument dispenser and
17 fitter issued by the department or applied for pursuant to section
18 71-4707 or otherwise discipline any applicant or licensee when the
19 applicant or licensee commits or is convicted of any of the acts
20 or offenses set out in sections 71-147 and 71-148 or In addition
21 to the grounds for disciplinary action found in sections 78 and 79
22 of this act, a credential issued under the Hearing Aid Instrument
23 Dispensers and Fitters Practice Act may be denied, refused renewal,
24 limited, revoked, or suspended or have other disciplinary measures
25 taken against it in accordance with section 96 of this act when

1 the applicant or credential holder is found guilty of any of the
2 following acts or offenses:

3 ~~(a)~~ (1) Fitting and selling a hearing aid to a child
4 under the age of sixteen who has not been examined and cleared for
5 hearing aid use within a six-month period by an otolaryngologist
6 without a signed waiver by the legal guardian. This subdivision
7 shall not apply to the replacement with an identical model of any
8 hearing aid within one year of its purchase;

9 ~~(b)~~ (2) Any other condition or acts which violate the
10 Trade Practice Rules for the Hearing Aid Industry of the Federal
11 Trade Commission or the Food and Drug Administration; or

12 (3) Violation of any provision of the Hearing Aid
13 Instrument Dispensers and Fitters Practice Act.

14 ~~(c)~~ Conducting business while suffering from a contagious
15 or infectious disease; or

16 ~~(d)~~ Violating any provision of sections 71-4701 to
17 71-4719.

18 ~~(2)~~ The department shall deny, revoke, suspend, or
19 otherwise discipline a license in accordance with the Uniform
20 Licensing Law.

21 Sec. 582. Section 71-4714.01, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-4714.01~~ The department shall establish and collect
24 fees for credentialing activities under sections 71-4701 to 71-4719
25 shall be established and collected the Hearing Aid Instrument

1 Dispensers and Fitters Practice Act as provided in ~~section 71-162.~~
2 sections 51 to 57 of this act.

3 Sec. 583. Section 71-1772, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-1772~~ Sections ~~71-1772 to 71-1794~~ 583 to 607 of this
6 act shall be known and may be cited as the Licensed Practical
7 Nurse-Certified Practice Act.

8 Sec. 584. Section 71-1773, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-1773~~ The purposes of the Licensed Practical
11 Nurse-Certified Practice Act are (1) to provide a means by
12 which licensed practical nurses-certified may perform certain
13 activities related to intravenous therapy, (2) to provide for
14 approval of certification courses to prepare licensed practical
15 nurses-certified, and (3) to ensure the health and safety of the
16 general public.

17 Sec. 585. For purposes of the Licensed Practical
18 Nurse-Certified Practice Act and elsewhere in the Uniform
19 Credentialing Act, unless the context otherwise requires, the
20 definitions found in sections 586 to 594 of this act apply.

21 Sec. 586. Administration includes observing, initiating,
22 monitoring, discontinuing, maintaining, regulating, adjusting,
23 documenting, assessing, planning, intervening, and evaluating.

24 Sec. 587. Approved certification course means a
25 course for the education and training of a licensed practical

1 nurse-certified which the board has approved.

2 Sec. 588. Board means the Board of Nursing.

3 Sec. 589. Direct supervision means that the responsible
4 licensed practitioner or registered nurse is physically present in
5 the clinical area and is available to assess, evaluate, and respond
6 immediately.

7 Sec. 590. Initial venipuncture means the initiation
8 of intravenous therapy based on a new order from a licensed
9 practitioner for an individual for whom a previous order for
10 intravenous therapy was not in effect.

11 Sec. 591. Intravenous therapy means the therapeutic
12 infusion or injection of substances through the venous system.

13 Sec. 592. Licensed practical nurse-certified means a
14 licensed practical nurse who meets the standards established
15 pursuant to section 597 of this act and who holds a valid
16 license issued by the department pursuant to the Licensed Practical
17 Nurse-Certified Practice Act.

18 Sec. 593. Licensed practitioner means any person
19 authorized by state law to prescribe intravenous therapy.

20 Sec. 594. Pediatric patient means a patient who is both
21 younger than eighteen years old and under the weight of thirty-five
22 kilograms.

23 Sec. 595. Section 71-1776, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-1776~~ A licensed practical nurse-certified may perform

1 the following activities related to the administration of
2 intravenous therapy under the direction of a licensed practitioner
3 or registered nurse:

4 (1) Calculate the rate of intravenous fluid infusions,
5 except for pediatric patients;

6 (2) Perform venipuncture, excluding jugular, for purposes
7 of peripheral intravenous therapy, except (a) for pediatric
8 patients or (b) with devices which exceed three inches in length.
9 Direct supervision by a licensed practitioner or registered
10 nurse shall be required for initial venipuncture for purposes of
11 peripheral intravenous therapy;

12 (3) Except in the case of a pediatric patient, administer
13 approved medications by approved methods. Approved methods of
14 administration and approved medications shall be those for which
15 nursing interventions are routine and predictable in nature related
16 to individual responses and adverse reactions and as defined in
17 rules and regulations of the board;

18 (4) Flush intravenous ports with heparin solution or
19 saline solution; and

20 (5) Add pain medication solutions to a patient-controlled
21 infusion pump.

22 Sec. 596. Section 71-1789, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-1789~~ The Licensed Practical Nurse-Certified Practice
25 Act shall not prohibit the performance of the activities identified

1 in section ~~71-1776~~ 595 of this act by an ~~uncertified~~ unlicensed
 2 person if performed (1) in an emergency situation, (2) by a
 3 legally qualified person from another state employed by the federal
 4 government and performing official duties in this state, or (3) by
 5 a person enrolled in an approved certification course if performed
 6 as part of that approved certification course.

7 Sec. 597. Section 71-1777, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 ~~71-1777~~ (1) In order to obtain a ~~certificate~~ license as
 10 a licensed practical nurse-certified, an individual shall: ~~meet the~~
 11 ~~following requirements:~~

12 ~~(1)~~ (a) Have a current license to practice as a licensed
 13 practical nurse in Nebraska;

14 ~~(2)~~ (b) Have successfully completed an approved
 15 certification course within one year before application for
 16 ~~certification;~~ licensure; and

17 ~~(3)~~ (c) Have satisfactorily passed an examination
 18 approved by the board.

19 (2) There is no minimum age requirement for licensure as
 20 a licensed practical nurse-certified. +

21 ~~(4)~~ Have filed an application with the department; and

22 ~~(5)~~ Have paid the required fee.

23 (3) An individual holding a certificate as a licensed
 24 practical nurse-certified on December 1, 2008, shall be deemed
 25 to be holding a license under this section on such date. The

1 certificate holder may continue to practice under such certificate
2 as a license until the next renewal date.

3 Sec. 598. Section 71-1778, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-1778 Except as otherwise provided in this section,~~
6 a certificate A license to practice as a licensed practical
7 nurse-certified shall be issued by the department to be valid for
8 ~~two years.~~ An initial certificate renewed biennially and shall
9 expire at the same time on the same date as the applicant's
10 Nebraska license to practice as a licensed practical nurse. The
11 application for the license shall include the applicant's social
12 security number.

13 Sec. 599. Section 71-1779, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-1779 Certificates for licensed practical~~
16 ~~nurses-certified shall be renewed as provided for licenses for~~
17 ~~licensed practical nurses in section 71-1,132.20. To obtain renewal~~
18 ~~of a certificate,~~ Continuing competency activities for renewal
19 of a license to practice as a licensed practical nurse-certified
20 shall complete continuing competency activities as required by
21 the board under section ~~71-1788~~ and provide documentation of
22 such activities as provided in section ~~71-161.10.~~ Such continuing
23 competency activities shall relate to intravenous therapy and may
24 be included in the continuing competency activities required under
25 the Nurse Practice Act for renewal of a license as a licensed

1 practical nurse.

2 Sec. 600. Section 71-1792, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~71-1792~~ ~~When a certificate~~ To restore a license to
5 practice as a licensed practical nurse-certified ~~lapses,~~ ~~the right~~
6 ~~of the individual to represent himself or herself as a certificate~~
7 ~~holder and to practice the activities for which a certificate~~
8 ~~is required shall terminate.~~ To restore the certificate after it
9 expires, such individual shall be required to meet the requirements
10 for ~~certification~~ licensure which are in effect at the time that he
11 or she wishes to restore the ~~certificate,~~ license.

12 Sec. 601. The department shall establish and collect
13 fees for credentialing under the Licensed Practical Nurse-Certified
14 Practice Act as provided in sections 51 to 57 of this act.

15 Sec. 602. Section 71-1790, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-1790~~ An individual ~~certified~~ licensed to practice as
18 a licensed practical nurse-certified may use the title licensed
19 practical nurse-certified and the abbreviation L.P.N.-C.

20 Sec. 603. Section 71-1775, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-1775~~ (1) Administration of intravenous therapy shall
23 be a responsibility of the registered nurse as ordered by a
24 licensed practitioner.

25 (2) A licensed practical nurse-certified may, under the

1 direction of a licensed practitioner or registered nurse, perform
2 the activities identified in section ~~71-1776~~ 595 of this act after
3 the licensed practitioner or registered nurse has performed a
4 physical assessment of the patient.

5 (3) A licensed practical nurse-certified shall perform
6 appropriate activities associated with central venous lines
7 only under direct supervision. Activities associated with
8 central venous lines that are appropriate for the licensed
9 practical nurse-certified to perform shall be defined in rules
10 and regulations. A licensed practitioner or registered nurse
11 shall provide direct supervision whenever a licensed practical
12 nurse-certified is performing activities associated with central
13 venous lines.

14 (4) A licensed practitioner or registered nurse need
15 not be on the premises in order for the licensed practical
16 nurse-certified to perform directed activities except for (a)
17 initial venipuncture for purposes of peripheral intravenous therapy
18 and (b) central-line activities.

19 (5) A licensed practitioner or registered nurse shall be
20 present at least once during each twenty-four-hour interval and
21 more frequently when a significant change in therapy or client
22 condition has occurred to assess the client when the licensed
23 practical nurse-certified is performing the activities identified
24 in section ~~71-1776~~. 595 of this act.

25 Sec. 604. Section 71-1780, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1780~~ (1) The board shall adopt and promulgate rules
3 and regulations defining competencies required for enrollment in an
4 approved certification course and acceptable means for measuring
5 the competencies. Before enrolling in a course, a licensed
6 practical nurse shall successfully demonstrate the prerequisite
7 competencies.

8 (2) The department with the advice of the board
9 shall prescribe a curriculum for training licensed practical
10 nurses-certified, establish an examination, and adopt and
11 promulgate rules and regulations setting minimum standards for
12 approved certification courses, including faculty qualifications,
13 record keeping, faculty-to-student ratios, and other aspects of
14 conducting such courses. The department may approve certification
15 courses developed by associations, educational institutions, or
16 other entities if such courses meet the requirements of this
17 section and the criteria prescribed in the rules and regulations.

18 (3) An approved certification course shall be no less
19 than forty-eight hours of classroom instruction and shall include a
20 clinical competency component as defined in rules and regulations
21 of the board. Classroom instruction shall include the following:
22 (a) State laws governing the administration of intravenous
23 therapy; (b) anatomy and physiology of the circulatory system; (c)
24 pharmacology; (d) fluid and electrolyte balance; (e) procedures
25 and precautions in performing intravenous therapy; (f) types of

1 equipment for intravenous therapy; (g) actions, interactions, and
2 effects of medications in intravenous therapy; (h) documentation;
3 and (i) other subjects relevant to the administration of
4 intravenous therapy. An approved certification course shall be
5 supervised by a registered nurse with a minimum of three years of
6 clinical experience immediately prior to supervision of the course.
7 An educator may be a physician, pharmacist, or other qualified
8 professional. Nothing in this section shall be deemed to prohibit
9 any courses from exceeding the minimum requirements.

10 Sec. 605. Section 71-1781, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-1781~~ (1) An applicant for approval to conduct a
13 certification course shall file an application and shall present
14 proof satisfactory to the department that the proposed course meets
15 the requirements of the Licensed Practical Nurse-Certified Practice
16 Act and the rules and regulations adopted and promulgated under the
17 act.

18 (2) The department may conduct such inspections
19 or investigations of applicants for approval to conduct a
20 certification course and of approved certification courses as may
21 be necessary to ensure compliance with the act and the rules and
22 regulations.

23 Sec. 606. Section 71-1783, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-1783~~ The department may deny, revoke, or suspend

1 or otherwise take disciplinary measures against an approved
2 certification course in accordance with section ~~71-155~~ 96 of
3 this act for violation of the Licensed Practical Nurse-Certified
4 Practice Act or the rules and regulations adopted and promulgated
5 under the act.

6 Sec. 607. Section 71-1785, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-1785~~ A course provider whose approval to conduct a
9 certification course has been suspended or revoked may apply for
10 reinstatement at such time as the certification course meets the
11 requirements of the Licensed Practical Nurse-Certified Practice Act
12 and rules and regulations adopted and promulgated under the act and
13 will continue to meet such requirements.

14 Sec. 608. Sections 608 to 622 of this act shall be known
15 and may be cited as the Massage Therapy Practice Act.

16 Sec. 609. Section 71-1,278, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-1,278~~ (1) For purposes of sections ~~71-1,278~~ to
19 71-1,282, the Massage Therapy Practice Act and elsewhere in the
20 Uniform Credentialing Act, unless the context otherwise requires,
21 the definitions found in sections 610 to 614 of this act apply. +

22 (a) An approved massage therapy school shall be (i) one
23 which is approved by the department upon the recommendation of the
24 Board of Massage Therapy, (ii) one which requires for admission a
25 diploma from an accredited high school or its equivalent, (iii) one

1 which has attached to its staff a regularly licensed physician and
2 employs one or more competent massage therapists as instructors,
3 and (iv) one which has a minimum requirement of a continuous
4 course of study and training of not less than one thousand hours
5 distributed over a term of not less than nine months. Such study
6 and training shall consist of one hundred hours of each of the
7 following: Physiology; anatomy; massage; pathology; hydrotherapy;
8 hygiene and practical demonstration; and health service management.
9 The remaining three hundred hours shall be obtained in subject
10 areas related to the clinical practice of massage therapy;

11 (b) Massage therapist shall mean a person licensed to
12 practice massage therapy;

13 (c) Massage therapy shall mean the physical, mechanical,
14 or electrical manipulation of soft tissue for the therapeutic
15 purposes of enhancing muscle relaxation, reducing stress, improving
16 circulation, or instilling a greater sense of well-being and
17 may include the use of oil, salt glows, heat lamps, and
18 hydrotherapy. Massage therapy shall not include diagnosis or
19 treatment or use of procedures for which a license to practice
20 medicine or surgery, chiropractic, or podiatry is required nor
21 the use of microwave diathermy, shortwave diathermy, ultrasound,
22 transcutaneous electrical nerve stimulation, electrical stimulation
23 of over thirty-five volts, neurological hyperstimulation, or spinal
24 and joint adjustments; and

25 (d) Massage therapy establishment shall mean any duly

1 licensed place in which a massage therapist practices his or her
2 profession of massage therapy.

3 ~~(2) The department shall adopt and promulgate rules~~
4 ~~and regulations as it may deem necessary with reference to the~~
5 ~~conditions under which the practice of massage therapy shall be~~
6 ~~carried on and the precautions necessary to be employed to prevent~~
7 ~~the spread of infectious and contagious diseases. The department~~
8 ~~shall have the power to enforce sections 71-1,278 to 71-1,282 and~~
9 ~~all necessary inspections in connection therewith.~~

10 Sec. 610. Approved massage therapy school means (1)
11 one which is approved by the board, (2) one which requires
12 for admission a diploma from an accredited high school or its
13 equivalent, (3) one which has attached to its staff a regularly
14 licensed physician and employs one or more competent massage
15 therapists as instructors, and (4) one which has a minimum
16 requirement of a continuous course of study and training of
17 not less than one thousand hours distributed over a term of not
18 less than nine months. Such study and training shall consist
19 of one hundred hours of each of the following: Physiology;
20 anatomy; massage; pathology; hydrotherapy; hygiene and practical
21 demonstration; and health service management. The remaining three
22 hundred hours shall be obtained in subject areas related to the
23 clinical practice of massage therapy.

24 Sec. 611. Board means the Board of Massage Therapy.

25 Sec. 612. Massage therapist means a person licensed to

1 practice massage therapy.

2 Sec. 613. Massage therapy means the physical, mechanical,
3 or electrical manipulation of soft tissue for the therapeutic
4 purposes of enhancing muscle relaxation, reducing stress, improving
5 circulation, or instilling a greater sense of well-being and
6 may include the use of oil, salt glows, heat lamps, and
7 hydrotherapy. Massage therapy does not include diagnosis or
8 treatment or use of procedures for which a license to practice
9 medicine or surgery, chiropractic, or podiatry is required nor
10 the use of microwave diathermy, shortwave diathermy, ultrasound,
11 transcutaneous electrical nerve stimulation, electrical stimulation
12 of over thirty-five volts, neurological hyperstimulation, or spinal
13 and joint adjustments.

14 Sec. 614. Massage therapy establishment means any duly
15 licensed place in which a massage therapist practices his or her
16 profession of massage therapy.

17 Sec. 615. Section 71-1,279, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-1,279~~ ~~Section 71-1,278~~ The Massage Therapy Practice
20 Act shall not be construed to include the following classes of
21 persons:

22 (1) Licensed physicians and surgeons, osteopathic
23 physicians, chiropractors, registered nurses, practical nurses,
24 cosmetologists, ~~chiropractors,~~ estheticians, nail technicians,
25 physical therapists, and barbers, and other persons credentialed

1 under the Uniform Credentialing Act who are exclusively engaged in
2 the practice of their respective professions;

3 (2) ~~physicians of~~ Physicians who serve in the armed
4 forces of the United States or the United States Army, Navy, or
5 Public Health Service when acting in the line of duty in this
6 state, and or who are employed by the United States Department of
7 Veterans Affairs or other federal agencies, if their practice is
8 limited to that service or employment;

9 (3) ~~students~~ Students performing massage therapy services
10 when they render such services within the scope of an approved
11 massage therapy school under the supervision of a licensed massage
12 therapist; and

13 (4) Individuals who hold a current license as a massage
14 therapist in another state and who travel with and provide massage
15 therapy services to theatrical groups, entertainers, or athletic
16 organizations.

17 Sec. 616. Section 71-1,280, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-1,280~~ (1) No person shall engage in the practice
20 of massage therapy or the operation of a massage therapy school
21 or establishment unless he or she obtains a license from the
22 department for that purpose.

23 (2) ~~In November of each odd-numbered year, all license~~
24 ~~holders shall apply for renewal of such license pursuant to the~~
25 ~~Uniform Licensing Law.~~

1 ~~(3) Each Nebraska-licensed massage therapist in active~~
2 ~~practice within the State of Nebraska shall, on or before November~~
3 ~~1 of each odd-numbered year, complete continuing competency~~
4 ~~activities as required by the board pursuant to section 71-161.09~~
5 ~~as a prerequisite for the licensee's next subsequent license~~
6 ~~renewal.~~

7 Sec. 617. Section 71-1,281, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-1,281~~ Every applicant for an initial license to
10 practice massage therapy shall (1) present satisfactory evidence
11 that he or she ~~is a resident of this state and~~ has attained the
12 age of nineteen years, ~~and is of good moral character,~~ (2) present
13 proof of graduation from an approved massage therapy school, and
14 (3) pass an examination prescribed by the ~~Board of Massage Therapy-~~
15 board.

16 Sec. 618. Section 71-1,281.01, Reissue Revised Statutes
17 of Nebraska, is amended to read:

18 ~~71-1,281.01~~ A temporary license to practice massage
19 therapy may be granted to any person who meets all the requirements
20 for a license except passage of the licensure examination required
21 by section ~~71-1,281.~~ 617 of this act. A temporary licensee shall be
22 supervised in his or her practice by a licensed massage therapist.
23 A temporary license shall be valid ~~only until the results of~~
24 ~~the next examination are available to the department.~~ for sixty
25 days or until the temporary licensee takes the examination,

1 whichever occurs first. In the event a temporary licensee fails
2 the examination required by such section, the temporary license
3 shall be ~~revoked,~~ null and void, except that the department, with
4 the ~~upon~~ recommendation of the ~~Board of Massage Therapy~~ board,
5 may extend the temporary license upon a showing of good cause why
6 such license should be extended. A temporary license may not be
7 extended beyond ~~one year,~~ six months. A temporary license shall not
8 be issued to any person failing the examination if such person did
9 not hold a valid temporary license prior to his or her failure to
10 pass the examination.

11 The department shall have the power to deny or revoke a
12 temporary license to practice massage therapy upon the grounds and
13 in accordance with the Uniform Licensing Law.

14 Sec. 619. The department, with the recommendation of
15 the board, may issue a license based on licensure in another
16 jurisdiction to an individual who meets the requirements of
17 the Massage Therapy Practice Act or substantially equivalent
18 requirements as determined by the department, with the
19 recommendation of the board.

20 Sec. 620. The department shall establish and collect
21 fees for credentialing under the Massage Therapy Practice Act as
22 provided in sections 51 to 57 of this act.

23 Sec. 621. For purposes of the Massage Therapy Practice
24 Act, unprofessional conduct includes the conduct listed in section
25 79 of this act and the provision by a massage therapist of sexual

1 stimulation as part of massage therapy.

2 Sec. 622. The department shall adopt and promulgate rules
3 and regulations as it may deem necessary with reference to the
4 conditions under which the practice of massage therapy shall be
5 carried on and the precautions necessary to be employed to prevent
6 the spread of infectious and contagious diseases. The department
7 shall have the power to enforce the Massage Therapy Practice Act
8 and all necessary inspections in connection therewith.

9 Sec. 623. Sections 623 to 638 of this act shall be known
10 and may be cited as the Medical Nutrition Therapy Practice Act.

11 Sec. 624. Section 71-1,285, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-1,285~~ (1) The Legislature finds that:

14 (a) The unregulated practice of medical nutrition therapy
15 can clearly harm or endanger the health, safety, and welfare of the
16 public;

17 (b) The public can reasonably be expected to benefit from
18 an assurance of initial and continuing professional ability; and

19 (c) The public cannot be effectively protected by a
20 less cost-effective means than state regulation of the practice of
21 medical nutrition therapy. The Legislature also finds that medical
22 nutrition therapists must exercise independent judgment and that
23 professional education, training, and experience are required to
24 make such judgment.

25 (2) The Legislature further finds that the practice

1 of medical nutrition therapy in the State of Nebraska is not
2 sufficiently regulated for the protection of the health, safety,
3 and welfare of the public. It declares that this is a matter
4 of statewide concern and it shall be the policy of the State of
5 Nebraska to promote high standards of professional performance by
6 those persons representing themselves as licensed medical nutrition
7 therapists.

8 Sec. 625. Section 71-1,286, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-1,286 As used in sections 71-1,285 to 71-1,294,~~
11 For purposes of the Medical Nutrition Therapy Practice Act and
12 elsewhere in the Uniform Credentialing Act, unless the context
13 otherwise requires, the definitions found in sections 626 to 632 of
14 this act apply. +

15 ~~(1) Assessment means the process of evaluating the~~
16 ~~nutritional status of patients. The assessment includes review~~
17 ~~and analysis of medical and diet histories, biochemical lab values,~~
18 ~~and anthropometric measurements to determine nutritional status and~~
19 ~~appropriate nutritional treatment;~~

20 ~~(2) Board means the Board of Medical Nutrition Therapy;~~

21 ~~(3) Consultation means conferring with a physician~~
22 ~~regarding the activities of the licensed medical nutrition~~
23 ~~therapist;~~

24 ~~(4) General nutrition services includes, but is not~~
25 ~~limited to;~~

1 ~~(a) Identifying the nutritional needs of individuals and~~
2 ~~groups in relation to normal nutritional requirements, and~~

3 ~~(b) Planning, implementing, and evaluating nutrition~~
4 ~~education programs for individuals and groups in the selection~~
5 ~~of food to meet normal nutritional needs throughout the life cycle,~~

6 ~~(5) Licensed medical nutrition therapist means a person~~
7 ~~who is licensed to practice medical nutrition therapy pursuant to~~
8 ~~the Uniform Licensing Law and who holds a current license issued by~~
9 ~~the department pursuant to section 71-1,290,~~

10 ~~(6) Medical nutrition therapy means the assessment of~~
11 ~~the nutritional status of patients. It involves the assessment of~~
12 ~~patient nutritional status followed by treatment, ranging from diet~~
13 ~~modification to specialized nutrition support, such as determining~~
14 ~~nutrient needs for enteral and parenteral nutrition, and monitoring~~
15 ~~to evaluate patient response to such treatment, and~~

16 ~~(7) Patient means a person with a disease, illness,~~
17 ~~injury, or medical condition for which nutritional interventions~~
18 ~~are an essential component of standard care.~~

19 Sec. 626. Assessment means the process of evaluating the
20 nutritional status of patients. The assessment includes review and
21 analysis of medical and diet histories, biochemical lab values,
22 and anthropometric measurements to determine nutritional status and
23 appropriate nutritional treatment.

24 Sec. 627. Board means the Board of Medical Nutrition
25 Therapy.

1 Sec. 628. Consultation means conferring with a physician
2 regarding the activities of the licensed medical nutrition
3 therapist.

4 Sec. 629. General nutrition services includes, but is not
5 limited to:

6 (1) Identifying the nutritional needs of individuals and
7 groups in relation to normal nutritional requirements; and

8 (2) Planning, implementing, and evaluating nutrition
9 education programs for individuals and groups in the selection
10 of food to meet normal nutritional needs throughout the life cycle.

11 Sec. 630. Licensed medical nutrition therapist means
12 a person who is licensed to practice medical nutrition therapy
13 pursuant to the Uniform Credentialing Act and who holds a current
14 license issued by the department pursuant to the Medical Nutrition
15 Therapy Practice Act.

16 Sec. 631. Medical nutrition therapy means the assessment
17 of the nutritional status of patients. Medical nutrition therapy
18 involves the assessment of patient nutritional status followed by
19 treatment, ranging from diet modification to specialized nutrition
20 support, such as determining nutrient needs for enteral and
21 parenteral nutrition, and monitoring to evaluate patient response
22 to such treatment.

23 Sec. 632. Patient means a person with a disease, illness,
24 injury, or medical condition for which nutritional interventions
25 are an essential component of standard care.

1 Sec. 633. The board shall consist of three professional
2 members, one physician, and one public member appointed pursuant to
3 section 58 of this act. The members shall meet the requirements of
4 sections 64 and 65 of this act.

5 Sec. 634. Section 71-1,287, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-1,287~~ ~~After September 1, 1996, no~~ No person shall
8 practice medical nutrition therapy unless he or she is licensed for
9 such purpose pursuant to the Uniform ~~Licensing Law~~ Credentialing
10 Act. The practice of medical nutrition therapy shall not include:

11 (1) Any person ~~licensed or certified~~ credentialed in this
12 state pursuant to ~~Chapter 71~~ the Uniform Credentialing Act and
13 engaging in such profession or occupation for which he or she is
14 ~~licensed or certified;~~ credentialed;

15 (2) Any student engaged in an academic program under the
16 supervision of a licensed medical nutrition therapist as part of a
17 major course of study in human nutrition, food and nutrition, or
18 dietetics, or an equivalent major course of study approved by the
19 board, and who is designated with a title which clearly indicates
20 the person's status as a student or trainee;

21 (3) Persons practicing medical nutrition therapy who
22 serve in the ~~Armed Forces~~ armed forces of the United States or
23 the United States Public Health Service, or who are employed
24 by the United States Department of Veterans Affairs or other
25 federal agencies, if their practice is limited to that service or

1 employment;

2 (4) Persons practicing medical nutrition therapy who are
3 licensed in another state, United States possession, or country,
4 or have received at least a baccalaureate degree, and are in this
5 state for the purpose of:

6 (a) Consultation if the practice in this state is limited
7 to consultation; or

8 (b) Conducting a teaching clinical demonstration in
9 connection with a program of basic clinical education, graduate
10 education, or postgraduate education which is sponsored by a
11 dietetic education program or a major course of study in human
12 nutrition, food and nutrition, or dietetics, or an equivalent major
13 course of study approved by the board;

14 (5) Persons performing general nutrition services
15 incidental to the practice of the profession insofar as it does not
16 exceed the scope of their education and training;

17 (6) Persons who market or distribute food, food
18 materials, or dietary supplements, including persons employed in
19 health food stores, or persons engaged in the advising of the use
20 of those products, or the preparation of those products, or the
21 counseling of individuals or groups in the selection of products
22 to meet general nutrition needs;

23 (7) Persons conducting classes or disseminating
24 information related to general nutrition services;

25 (8) Persons who care for the sick in accordance with

1 the tenets and practices of any bona fide church or religious
2 denomination;

3 (9) Persons who provide information and instructions
4 regarding food intake or exercise as a part of a weight control
5 program; and

6 (10) Persons with advanced postgraduate degrees involved
7 in academic teaching or research.

8 Sec. 635. Section 71-1,289, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~71-1,289~~ A person shall be qualified to be a licensed
11 medical nutrition therapist if such person furnishes evidence that
12 he or she:

13 (1) Has met the requirements for and is a registered
14 dietitian by the American Dietetic Association or an equivalent
15 entity recognized by the board;

16 (2) (a) Has satisfactorily passed an examination approved
17 by the board;

18 (b) Has received a baccalaureate degree from an
19 accredited college or university with a major course of study in
20 human nutrition, food and nutrition, dietetics, or an equivalent
21 major course of study approved by the board; and

22 (c) Has satisfactorily completed a program of supervised
23 clinical experience approved by the department. Such clinical
24 experience shall consist of not less than nine hundred hours
25 of a planned continuous experience in human nutrition, food and

1 nutrition, or dietetics under the supervision of an individual
2 meeting the qualifications of this section; or

3 (3) (a) Has satisfactorily passed an examination approved
4 by the board; and

5 (b) (i) Has received a master's or doctorate degree from
6 an accredited college or university in human nutrition, nutrition
7 education, food and nutrition, or public health nutrition or in an
8 equivalent major course of study approved by the board; or

9 (ii) Has received a master's or doctorate degree from an
10 accredited college or university which includes a major course of
11 study in clinical nutrition. Such course of study shall consist
12 of not less than a combined two hundred hours of biochemistry and
13 physiology and not less than seventy-five hours in human nutrition.

14 For purposes of this section, accredited college or
15 university means an institution currently listed with the United
16 States Secretary of Education as accredited. Applicants who
17 have obtained their education outside of the United States and
18 its territories shall have their academic degrees validated as
19 equivalent to a baccalaureate or master's degree conferred by a
20 United States regionally accredited college or university.

21 The practice of medical nutrition therapy shall be
22 performed under the consultation of a physician licensed pursuant
23 to section ~~71-1,104~~ 684 of this act or sections ~~71-1,137~~ to
24 ~~71-1,141.~~ 687 to 691 of this act.

25 Sec. 636. The department, with the recommendation of

1 the board, may issue a license based on licensure in another
2 jurisdiction to an individual who meets the requirements of
3 the Medical Nutrition Therapy Practice Act or substantially
4 equivalent requirements as determined by the department, with the
5 recommendation of the board.

6 Sec. 637. The department shall establish and collect fees
7 for credentialing under the Medical Nutrition Therapy Practice Act
8 as provided in sections 51 to 57 of this act.

9 Sec. 638. Section 71-1,293, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-1,293 (1)~~ Nothing in sections ~~71-1,285 to 71-1,294~~
12 the Medical Nutrition Therapy Practice Act shall be construed
13 to permit a licensed medical nutrition therapist to practice any
14 other profession regulated under the Nebraska Cosmetology Act, the
15 Occupational Therapy Practice Act, or Chapter 71, article 1, 37, or
16 47. Uniform Credentialing Act.

17 ~~(2) Any person who represents himself or herself as a~~
18 licensed medical nutrition therapist without first being licensed
19 pursuant to the Uniform Licensing Law shall be guilty of a Class IV
20 misdemeanor.

21 Sec. 639. Sections 639 to 658 of this act shall be known
22 and may be cited as the Medical Radiography Practice Act.

23 Sec. 640. For purposes of the Medical Radiography
24 Practice Act and elsewhere in the Uniform Credentialing Act, unless
25 the context otherwise requires, the definitions found in sections

1 641 to 651 of this act apply.

2 Sec. 641. Board means the Board of Medical Radiography.

3 Sec. 642. Interpretative fluoroscopic procedures means
4 the use of radiation in continuous mode to provide information,
5 data, and film or hardcopy images for diagnostic review and
6 interpretation by a licensed practitioner as the images are being
7 produced.

8 Sec. 643. Licensed practitioner means a person
9 licensed to practice medicine, dentistry, podiatry, chiropractic,
10 osteopathic medicine and surgery, or as an osteopathic physician.

11 Sec. 644. Limited radiographer means a person licensed
12 to practice medical radiography pursuant to section 654 of this
13 act. Limited radiographer does not include a person certified under
14 section 1034 of this act.

15 Sec. 645. Medical radiographer means a person licensed to
16 practice medical radiography pursuant to section 653 of this act.

17 Sec. 646. Medical radiography means the application of
18 radiation to humans for diagnostic purposes, including, but not
19 limited to, adjustment or manipulation of X-ray systems and
20 accessories including image receptors, positioning of patients,
21 processing of films, and any other action that materially affects
22 the radiation dose to patients.

23 Sec. 647. Radiation means ionizing radiation and
24 nonionizing radiation as follows:

25 (1) Ionizing radiation means gamma rays, X-rays, alpha

1 and beta particles, high-speed electrons, neutrons, protons, and
2 other atomic or nuclear particles or rays but does not include
3 sound or radio waves or visible, infrared, or ultraviolet light;
4 and

5 (2) Nonionizing radiation means (a) any electromagnetic
6 radiation which can be generated during the operation of electronic
7 products as defined in section 71-3503 to such energy density
8 levels as to present a biological hazard to occupational and
9 public health and safety and the environment, other than ionizing
10 electromagnetic radiation, and (b) any sonic, ultrasonic, or
11 infrasonic waves which are emitted from an electronic product
12 as defined in section 71-3503 as a result of the operation of
13 an electronic circuit in such product and to such energy density
14 levels as to present a biological hazard to occupational and public
15 health and safety and the environment.

16 Sec. 648. Radiation-generating equipment means any
17 manufactured product or device, component part of such a product or
18 device, or machine or system which during operation can generate
19 or emit radiation except devices which emit radiation only from
20 radioactive material.

21 Sec. 649. Sources of radiation means any radioactive
22 material, any radiation-generating equipment, or any device or
23 equipment emitting or capable of emitting radiation or radioactive
24 material.

25 Sec. 650. Undesirable radiation means radiation in such

1 quantity and under such circumstances as determined from time
2 to time by rules and regulations adopted and promulgated by the
3 department.

4 Sec. 651. X-ray system means an assemblage of components
5 for the controlled production of X-rays, including, but not
6 limited to, an X-ray high-voltage generator, an X-ray control,
7 a tube housing assembly, a beam-limiting device, and the necessary
8 supporting structures. Additional components which function with
9 the system are considered integral parts of the system.

10 Sec. 652. Section 71-3512, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-3512 (1) The Medical Radiographer Advisory Committee~~
13 ~~is created. The advisory committee~~ The board shall consist of
14 the head of the division of the department responsible for
15 credentialing, who shall chair the meetings of the advisory
16 committee, and four medical radiographers and one limited
17 radiographer. licensed by the department and appointed by the State
18 ~~Board of Health.~~ Of the first four medical radiographers appointed,
19 ~~two~~ one shall be appointed for a term of one year, one shall be
20 appointed for terms a term of two years, one shall be appointed
21 for a term of three years, and one and two shall be appointed for
22 ~~terms~~ a term of four years. The first limited radiographer shall
23 be appointed for a term of five years. Thereafter each appointment
24 shall be for a term of ~~four~~ five years. The advisory committee
25 board shall meet at the call of the chairperson but not less than

1 least two times per calendar year. The members shall serve without
2 compensation for such service other than reimbursement for the
3 actual and necessary expenses of attending the meetings of the
4 advisory committee as provided in sections ~~81-1174 to 81-1177.~~

5 ~~(2) The advisory committee shall advise the department~~
6 ~~on all matters pertaining to the licensure and regulation of~~
7 ~~medical radiographers, including, but not limited to, the practice~~
8 ~~of medical radiography, the assurance of continuing competency,~~
9 ~~and the disciplining of medical radiographers found to have~~
10 ~~violated rules and regulations relating to the practice of medical~~
11 ~~radiography adopted and promulgated pursuant to the Radiation~~
12 ~~Control Act.~~

13 Sec. 653. Section 71-3515.01, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~71-3515.01~~ (1) A person licensed by the department, with
16 the recommendation of the board, as a medical radiographer may
17 practice medical radiography on any part of the human anatomy
18 for interpretation by and under the direction of a licensed
19 practitioner, excluding interpretative fluoroscopic procedures.
20 ~~Such person~~ An applicant for a license as a medical radiographer
21 shall:

22 (a) ~~Prior to issuance of a license as a medical~~
23 ~~radiographer, (i) complete~~ Complete an educational program in
24 radiography incorporating the course material as provided in the
25 rules and regulations of the department approved by the board

1 pursuant to subsection (1) of section ~~71-3515.02~~ and ~~(ii)~~ complete
2 656 of this act;

3 (b) Complete an application which includes such person's
4 social security number and successfully in accordance with the
5 Uniform Credentialing Act; and

6 (c) Successfully complete an examination approved by the
7 board. department on the course material. Presentation of proof
8 of registration in radiography with the American Registry of
9 Radiologic Technologists is proof of meeting the requirements of
10 this subdivision (a) of this subsection; and

11 ~~(b) Prior to renewal of licensure as a medical~~
12 ~~radiographer, have an average of twelve units of continuing~~
13 ~~education per year as approved by the department or complete~~
14 ~~continuing competency activities as required by the department~~
15 ~~pursuant to section 71-3507.~~

16 (2) Presentation of proof of current registration in
17 radiography with the American Registry of Radiologic Technologists
18 is proof of meeting the requirements of subdivisions (a) (1) (a) and
19 (b) of this subsection. (c) of this section.

20 ~~(2) A person licensed by the department as a limited~~
21 ~~radiographer may practice medical radiography on limited regions~~
22 ~~of the human anatomy, using only routine radiographic procedures,~~
23 ~~for the interpretation by and under the direction of a licensed~~
24 ~~practitioner, excluding computed tomography, the use of contrast~~
25 ~~media, and the use of fluoroscopic or mammographic equipment. Such~~

1 ~~person shall.~~

2 ~~(a) Prior to issuance of a license as a limited~~
3 ~~radiographer, complete an application which includes the~~
4 ~~applicant's social security number and successfully complete~~
5 ~~an examination approved by the department, as described in~~
6 ~~subdivision (2)(a) of section 71-3515.02 and at least one of the~~
7 ~~anatomical regions listed in subdivision (2)(b) of such section or~~
8 ~~successfully complete an examination approved by the department,~~
9 ~~as described in subsection (3) of section 71-3515.02. The license~~
10 ~~issued shall be specific to the anatomical region or regions for~~
11 ~~which the applicant has passed an approved examination, except~~
12 ~~that an applicant may be licensed in the anatomical region of~~
13 ~~Abdomen upon successful passage of the examinations described in~~
14 ~~subdivisions (2)(a) and (2)(b)(iv) of section 71-3515.02 and upon a~~
15 ~~finding by the department that continued provision of service for a~~
16 ~~community would be in jeopardy, and~~

17 ~~(b) Prior to renewal of licensure as a limited~~
18 ~~radiographer, have an average of twelve units of continuing~~
19 ~~education per year as approved by the department or complete~~
20 ~~continuing competency activities as required by the department~~
21 ~~pursuant to section 71-3507.~~

22 ~~(3) The requirements of this section do not apply to~~
23 ~~a student while enrolled and participating in an educational~~
24 ~~program in medical radiography who, as a part of an educational~~
25 ~~program, applies X-rays to humans while under the supervision~~

1 of the licensed practitioners or medical radiographers associated
2 with the educational program. Students who have completed at least
3 twelve months of the training course described in subsection (1) of
4 section 71-3515.02 may apply for licensure as a temporary medical
5 radiographer. Temporary medical radiographer licenses shall expire
6 eighteen months after issuance and shall not be renewed. Persons
7 licensed as temporary medical radiographers shall be permitted
8 to perform the duties of a limited radiographer licensed in all
9 anatomical regions of subdivision (2)(b) of such section and
10 Abdomen.

11 Sec. 654. (1) A person licensed by the department,
12 with the recommendation of the board, as a limited radiographer
13 may practice medical radiography on limited regions of the
14 human anatomy, using only routine radiographic procedures, for
15 the interpretation by and under the direction of a licensed
16 practitioner, excluding computed tomography, the use of contrast
17 media, and the use of fluoroscopic or mammographic equipment.
18 An applicant for a license as a limited radiographer shall
19 successfully complete an examination approved by the board, as
20 described in subdivision (2)(a) of section 656 of this act and at
21 least one of the anatomical regions listed in subdivision (2)(b)
22 of such section or successfully complete an examination approved by
23 the department, as described in subsection (3) of section 656 of
24 this act.

25 (2) Each license issued shall be specific to the

1 anatomical region or regions for which the applicant has passed
2 an approved examination, except that an applicant may be licensed
3 in the anatomical region of Abdomen upon successful passage of
4 the examinations described in subdivisions (2) (a) and (2) (b) (iv)
5 of section 656 of this act and upon a finding by the department,
6 with the recommendation of the board, that continued provision of
7 service for a community would be in jeopardy.

8 Sec. 655. The requirements of sections 653 and 654
9 of this act do not apply to a student while enrolled and
10 participating in an educational program in medical radiography
11 who, as a part of an educational program, applies X-rays to
12 humans while under the supervision of the licensed practitioners
13 or medical radiographers associated with the educational program.
14 Students who have completed at least twelve months of the training
15 course described in subsection (1) of section 656 of this act may
16 apply for licensure as a temporary medical radiographer. Temporary
17 medical radiographer licenses shall expire eighteen months after
18 issuance and shall not be renewed. Persons licensed as temporary
19 medical radiographers shall be permitted to perform the duties
20 of a limited radiographer licensed in all anatomical regions of
21 subdivision (2) (b) of section 656 of this act and Abdomen.

22 Sec. 656. Section 71-3515.02, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-3515.02 (1) The educational program for medical
25 radiographers shall consist of twenty-four months of instruction

1 in radiography approved by the ~~department~~ board which includes,
2 but is not limited to, radiographic procedures, imaging equipment,
3 image production and evaluation, film processing, radiation
4 physics, radiation protection, radiation biology, radiographic
5 pathology, and quality assurance activities. The ~~department~~ board
6 shall recognize equivalent courses of instruction successfully
7 completed by individuals who are applying for licensure as
8 medical radiographers ~~by the department~~ when determining if the
9 requirements of section ~~71-3515.01~~ 653 of this act have been met.

10 (2) The examination for limited radiographers shall
11 include, but not be limited to:

12 (a) Radiation protection, equipment maintenance and
13 operation, image production and evaluation, and patient care and
14 management; and

15 (b) The anatomy of, and positioning for, specific regions
16 of the human anatomy. The anatomical regions shall include at least
17 one of the following:

18 (i) Chest;

19 (ii) Extremities;

20 (iii) Skull and sinus;

21 (iv) Spine; or

22 (v) Ankle and foot.

23 (3) The examination for limited radiographers in bone
24 density shall include, but not be limited to, basic concepts
25 of bone densitometry, equipment operation and quality control,

1 radiation safety, and dual X-ray absorptiometry (DXA) scanning of
2 the finger, heel, forearm, lumbar spine, and proximal femur.

3 (4) The department, with the recommendation of the board,
4 shall adopt and promulgate rules and regulations regarding the
5 examinations required in ~~subdivisions (1)(a)(ii) and (2)(a) of~~
6 ~~section 71-3515.01.~~ sections 653 and 654 of this act. Such
7 rules and regulations shall provide for (a) the administration
8 of examinations based upon national standards, such as the
9 Examination in Radiography from the American Registry of Radiologic
10 Technologists for medical radiographers, the Examination for the
11 Limited Scope of Practice in Radiography or the Bone Densitometry
12 Equipment Operator Examination from the American Registry of
13 Radiologic Technologists for limited radiographers, or equivalent
14 examinations that, as determined by the ~~department,~~ board, meet the
15 standards for educational and psychological testing as recommended
16 by the American Psychological Association, the American Educational
17 Research Association, and the National Council on Measurement in
18 Education, (b) procedures to be followed for examinations, (c) the
19 method of grading and the passing grades for such examinations, (d)
20 security protection for questions and answers, and (e) for medical
21 radiographers, the contents of such examination based on the course
22 requirements for medical radiographers prescribed in subsection (1)
23 of this section. Any costs incurred in determining the extent to
24 which examinations meet the examining standards of this subsection
25 shall be paid by the individual or organization proposing the use

1 of such examination.

2 ~~(5)~~ Any person employed in medical radiography before
3 and on June 27, 1995, who is not otherwise licensed may apply for
4 a license as a provisional limited radiographer before January
5 1, 1996. A person licensed as a provisional limited radiographer
6 may perform the duties of a limited radiographer licensed in all
7 anatomical regions listed in subdivision ~~(2)(b)~~ of this section
8 and the anatomical region of Abdomen. A provisional limited
9 radiographer shall not radiograph children under the age of
10 six months, except ~~(a)~~ upon a finding by the department that
11 continued provision of service for a community would be in
12 jeopardy if this provision is enforced, ~~(b)~~ for an employee of
13 a hospital licensed and in good standing under the Health Care
14 Facility Licensure Act and located in a rural area as defined
15 in section 71-5653, or ~~(c)~~ in a bona fide emergency situation.
16 No examination shall be required of individuals applying for a
17 license as a provisional limited radiographer. All provisional
18 limited radiographer licenses expire January 1, 2005. A license
19 as a provisional limited radiographer is subject to discipline for
20 violations of the Radiation Control Act and rules and regulations
21 adopted pursuant to the act, including, but not limited to,
22 revocation for nonpayment of fees or failure to meet continuing
23 competency requirements as required by the department pursuant to
24 section 71-3507.

25 ~~(6)~~ (5) No applicant for a license as a limited

1 radiographer may take the examination for licensure, or for
2 licensure for any specific anatomical region, more than three
3 times without first waiting a period of one year after the last
4 unsuccessful attempt of the examination and submitting proof to
5 the department of completion of continuing competency activities as
6 required by the department pursuant to section 71-3507 board for
7 each subsequent attempt.

8 ~~(7) The department shall establish and collect fees as~~
9 ~~provided in section 71-162 for the implementation of this section~~
10 ~~and section 71-3515.01, including an examination fee, initial~~
11 ~~and renewal fees for licenses for persons performing medical~~
12 ~~radiography, and a fee for approval of courses of instruction.~~

13 Sec. 657. The department shall establish and collect fees
14 for credentialing under the Medical Radiography Practice Act as
15 provided in sections 51 to 57 of this act.

16 Sec. 658. (1) Persons authorized under the Dentistry
17 Practice Act to practice as dental hygienists and dental assistants
18 who meet the requirements of section 468 of this act shall not be
19 required to be licensed under the Medical Radiography Practice Act.

20 (2) The department may exempt certain users of sources of
21 radiation from licensing requirements established under the Medical
22 Radiography Practice Act when the board finds that the exemption
23 will not constitute a significant risk to occupational and public
24 health and safety and the environment.

25 (3) Individuals who are currently licensed in the State

1 of Nebraska as podiatrists, chiropractors, dentists, physicians
2 and surgeons, osteopathic physicians, physician assistants, and
3 veterinarians shall be exempt from the rules and regulations of
4 the department pertaining to the qualifications of persons for the
5 use of X-ray radiation-generating equipment operated for diagnostic
6 purposes.

7 Sec. 659. Sections 659 to 719 of this act shall be known
8 and may be cited as the Medicine and Surgery Practice Act.

9 Sec. 660. Section 71-1,107.01, Reissue Revised Statutes
10 of Nebraska, is amended to read:

11 ~~71-1,107.01~~ For the purposes of sections ~~71-1,107.01~~ to
12 ~~71-1,107.14~~, the Medicine and Surgery Practice Act and elsewhere
13 in the Uniform Credentialing Act, unless the context otherwise
14 requires, the definitions found in sections 661 to 680 of this act
15 apply. +

16 ~~(1) Temporary educational permit shall mean a permit to~~
17 ~~practice medicine and surgery, osteopathic medicine and surgery, or~~
18 ~~any of their allied specialties in a supervised educational program~~
19 ~~approved by the Board of Medicine and Surgery;~~

20 ~~(2) Graduate medical education shall mean a period of~~
21 ~~supervised educational training by a graduate of an accredited~~
22 ~~school or college of medicine or an accredited school or college~~
23 ~~of osteopathic medicine, which training has been approved by the~~
24 ~~department upon recommendation of the board;~~

25 ~~(3) Visiting faculty permit shall mean a permit for a~~

1 physician qualified by virtue of previous medical training and
 2 experience to teach students of medicine, to conduct research, or
 3 both,

4 ~~(4) Accredited hospital shall mean a hospital accredited~~
 5 ~~by the department upon recommendation of the board,~~

6 ~~(5) Accredited school or college of medicine shall mean~~
 7 ~~any school or college of medicine accredited as such pursuant to~~
 8 ~~the laws of the State of Nebraska; and~~

9 ~~(6) An accredited school or college of osteopathic~~
 10 ~~medicine shall mean any school or college of osteopathic medicine~~
 11 ~~accredited as such under the laws of the State of Nebraska.~~

12 Sec. 661. Accredited hospital means a hospital accredited
 13 by the department, with the recommendation of the board.

14 Sec. 662. Section 71-1,105, Reissue Revised Statutes of
 15 Nebraska, is amended to read:

16 ~~71-1,105~~ An accredited school or college of medicine
 17 ~~for the purpose of the Uniform Licensing Law shall be means~~ one
 18 approved by the department upon the recommendation of the Board of
 19 ~~Medicine and Surgery,~~ board, and such school or college shall meet
 20 and maintain generally minimum standards ~~prescribed~~ approved by the
 21 board. Such minimum standards shall apply equally to all accredited
 22 schools, and any school to be accredited shall permit inspections
 23 by the department.

24 A school or college of osteopathic medicine and surgery
 25 fulfilling all the foregoing such requirements shall not be refused

1 standing as an accredited medical school because it may also
 2 specialize in giving instruction according to any special system of
 3 healing.

4 Sec. 663. Section 71-1,140, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 ~~71-1,140~~ An accredited school or college of osteopathic
 7 medicine ~~shall be~~ means one approved by the ~~department upon the~~
 8 ~~recommendation of the Board of Medicine and Surgery.~~ board. An
 9 accredited school or college of osteopathic medicine shall meet
 10 and maintain general minimum standards ~~prescribed~~ approved by the
 11 board. The minimum standards shall apply equally to all such
 12 accredited schools and colleges. Any school or college seeking
 13 accreditation shall permit inspections by the department.

14 Nothing in this section shall be construed to prohibit
 15 the department, ~~upon consultation with~~ the recommendation of the
 16 board, from accepting accreditation of a school or college of
 17 osteopathic medicine by the American Osteopathic Association as
 18 evidence of meeting the specified requirements of this section or
 19 the equivalent thereof.

20 Sec. 664. Section 71-1,344, Reissue Revised Statutes of
 21 Nebraska, is amended to read:

22 ~~71-1,344~~ For purposes of sections ~~71-1,344 to 71-1,349~~
 23 and elsewhere in the Uniform Licensing Law, unless the
 24 ~~context otherwise requires:~~ (1) Acupuncture means the insertion,
 25 manipulation, and removal of acupuncture needles and the

1 application of manual, mechanical, thermal, electrical, and
2 electromagnetic treatment to such needles at specific points or
3 meridians on the human body in an effort to promote, maintain,
4 and restore health and for the treatment of disease, based on
5 acupuncture theory. Acupuncture may include the recommendation
6 of therapeutic exercises, dietary guidelines, and nutritional
7 support to promote the effectiveness of the acupuncture treatment.
8 Acupuncture does not include manipulation or mobilization of or
9 adjustment to the spine, extraspinal manipulation, or the practice
10 of medical nutrition therapy. ~~+~~

11 ~~(2) Acupuncturist means a person engaged in the practice~~
12 ~~of acupuncture, and~~

13 ~~(3) Board means the Board of Medicine and Surgery.~~

14 Sec. 665. Acupuncturist means a person engaged in the
15 practice of acupuncture.

16 Sec. 666. Approved program means a program for the
17 education of physician assistants which the board formally
18 approves.

19 Sec. 667. Backup physician means a physician designated
20 by the supervising physician to ensure supervision of the physician
21 assistant in the supervising physician's absence. A backup
22 physician shall be subject to the same requirements imposed upon
23 the supervising physician when the backup physician is acting as a
24 supervising physician.

25 Sec. 668. Board means the Board of Medicine and Surgery.

1 Sec. 669. Committee means the Physician Assistant
2 Committee created in section 714 of this act.

3 Sec. 670. Fellowship means a program of supervised
4 educational training, approved by the board, in a medical specialty
5 or subspecialty at an accredited hospital, an accredited school
6 or college of medicine, or an accredited school or college of
7 osteopathic medicine, that follows the completion of undergraduate
8 medical education.

9 Sec. 671. Graduate medical education or residency means
10 a program of supervised educational training, approved by the
11 board, in a medical specialty at an accredited hospital, an
12 accredited school or college of medicine, or an accredited school
13 or college of osteopathic medicine, that follows the completion of
14 undergraduate medical education.

15 Sec. 672. Section 71-1,107.16, Reissue Revised Statutes
16 of Nebraska, as amended by section 338, Legislative Bill 296, One
17 Hundredth Legislature, First Session, 2007, is amended to read:

18 71-1,107.16 For purposes of sections 71-1,107.15 to
19 71-1,107.30, unless the context otherwise requires:

20 ~~(1) Approved program means a program for the education of~~
21 ~~physician assistants which the board formally approves;~~

22 ~~(2) Board means the Board of Medicine and Surgery;~~

23 ~~(3) Department means the Division of Public Health of the~~
24 ~~Department of Health and Human Services;~~

25 ~~(4) Physician assistant means any person who graduates~~

1 from a program approved by the Commission on Accreditation of
2 Allied Health Education Programs or its predecessor or successor
3 agency and the board, who satisfactorily completes a proficiency
4 examination, and whom the board, with the concurrence of the
5 department, with the recommendation of the board, approves to
6 perform medical services under the supervision of a physician
7 or group of physicians approved by the department, with the
8 recommendation of the board, to supervise such assistant. ~~;~~

9 ~~(5) Supervision means the ready availability of the~~
10 ~~supervising physician for consultation and direction of the~~
11 ~~activities of the physician assistant. Contact with the supervising~~
12 ~~physician by telecommunication shall be sufficient to show ready~~
13 ~~availability if the board finds that such contact is sufficient to~~
14 ~~provide quality medical care. The level of supervision may vary by~~
15 ~~geographic location as provided in section 71-1,107.17;~~

16 ~~(6) Trainee means any person who is currently enrolled in~~
17 ~~an approved program;~~

18 ~~(7) Proficiency examination means the initial proficiency~~
19 ~~examination approved by the board for the licensure of physician~~
20 ~~assistants, including, but not limited to, the examination~~
21 ~~administered by the National Commission on Certification of~~
22 ~~Physician Assistants or other national organization established for~~
23 ~~such purpose that is recognized by the board;~~

24 ~~(8) Supervising physician means a (a) board-approved~~
25 ~~physician who utilizes an approved physician assistant or (b)~~

1 ~~backup physician;~~

2 ~~(9) Backup physician means a physician designated by~~
3 ~~the supervising physician to ensure supervision of the physician~~
4 ~~assistant in the supervising physician's absence. A backup~~
5 ~~physician shall be subject to the same requirements imposed upon~~
6 ~~the supervising physician when the backup physician is acting as a~~
7 ~~supervising physician; and~~

8 ~~(10) Committee means the Physician Assistant Committee~~
9 ~~created in section 71-1,107.25.~~

10 Sec. 673. Proficiency examination means the initial
11 proficiency examination approved by the board for the licensure
12 of physician assistants, including, but not limited to,
13 the examination administered by the National Commission on
14 Certification of Physician Assistants or other national
15 organization established for such purpose that is recognized by
16 the board.

17 Sec. 674. Refresher course means a planned program
18 of supervised educational training, approved by the board, that
19 provides a review of medical knowledge and skills for the purpose
20 of the enhancement of clinical competency.

21 Sec. 675. Supervising physician means (1) a
22 board-approved physician who utilizes a licensed physician
23 assistant or (2) a backup physician.

24 Sec. 676. Supervision means the ready availability of
25 the supervising physician for consultation and direction of the

1 activities of the physician assistant. Contact with the supervising
2 physician by telecommunication shall be sufficient to show ready
3 availability if the board finds that such contact is sufficient to
4 provide quality medical care. The level of supervision may vary by
5 geographic location as provided in section 705 of this act.

6 Sec. 677. Temporary educational permit means a permit to
7 practice medicine and surgery, osteopathic medicine and surgery, or
8 any of their allied specialties in graduate medical education, a
9 fellowship, or a refresher course.

10 Sec. 678. Trainee means any person who is currently
11 enrolled in an approved program.

12 Sec. 679. Unprofessional conduct means any departure from
13 or failure to conform to the standards of acceptable and prevailing
14 practice of medicine and surgery or the ethics of the profession,
15 regardless of whether a person, patient, or entity is injured, or
16 conduct that is likely to deceive or defraud the public or is
17 detrimental to the public interest, including, but not limited to:

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

23 (2) Performing an abortion upon a minor without having
24 satisfied the notice requirements of sections 71-6901 to 71-6908;
25 and

1 (3) The intentional and knowing performance of a
2 partial-birth abortion as defined in subdivision (9) of section
3 28-326, unless such procedure is necessary to save the life of the
4 mother whose life is endangered by a physical disorder, physical
5 illness, or physical injury, including a life-endangering physical
6 condition caused by or arising from the pregnancy itself.

7 Sec. 680. Visiting faculty permit means a permit for
8 a physician qualified by virtue of previous medical training and
9 experience to teach students of medicine, to conduct research, or
10 both.

11 Sec. 681. The board shall consist of eight members,
12 including at least two public members. Two of the six professional
13 members of the board shall be officials or members of the
14 instructional staff of an accredited medical school in this state.
15 One of the six professional members of the board shall be a person
16 who has a license to practice osteopathic medicine and surgery in
17 this state.

18 Sec. 682. Section 71-1,102, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 ~~71-1,102~~ For the purpose of the Uniform Licensing Law,
21 purposes of the Uniform Credentialing Act, and except as provided
22 in section ~~71-1,103~~ 683 of this act or as otherwise provided by
23 law, the following classes of persons shall be deemed to be engaged
24 in the practice of medicine and surgery:

25 (1) Persons who publicly profess to be physicians, or

1 surgeons, ~~or obstetricians~~ or publicly profess to assume the duties
2 incident to the practice of medicine, surgery, ~~or obstetrics~~, or
3 any of their branches;

4 (2) ~~persons~~ Persons who prescribe and furnish medicine
5 for some illness, disease, ailment, injury, pain, deformity, or any
6 physical or mental condition, or treat the same by surgery;

7 (3) ~~persons~~ Persons holding themselves out to the public
8 as being qualified in the diagnosis or treatment of diseases,
9 ailments, pain, deformity, or any physical or mental condition, or
10 injuries of human beings;

11 (4) ~~persons~~ Persons who suggest, recommend, or prescribe
12 any form of treatment for the intended palliation, relief, or cure
13 of any physical or mental ailment of any person;

14 (5) ~~persons~~ Persons who maintain an office for the
15 examination or treatment of persons afflicted with ailments,
16 diseases, injuries, pain, deformity, or any physical or mental
17 condition of human beings;

18 (6) ~~persons~~ Persons who attach to their name the title
19 of M.D., surgeon, physician, physician and surgeon, or any word or
20 abbreviation ~~indicating~~ and who indicate that they are engaged in
21 the treatment or diagnosis of ailments, diseases, injuries, pain,
22 deformity, infirmity, or any physical or mental condition of human
23 beings; and

24 (7) ~~persons~~ Persons who are physically located in another
25 state but who, through the use of any medium, including an

1 electronic medium, perform for compensation any service which
2 constitutes the healing arts that would affect the diagnosis or
3 treatment of an individual located in this state.

4 Sec. 683. Section 71-1,103, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 ~~71-1,103~~ The following classes of persons shall not be
7 construed to be engaged in the unauthorized practice of medicine:

8 (1) Persons rendering gratuitous services in cases of
9 emergency;

10 (2) Persons administering ordinary household remedies;

11 (3) The members of any church practicing its religious
12 tenets, except that they shall not prescribe or administer drugs or
13 medicines, perform surgical or physical operations, nor assume the
14 title of or hold themselves out to be physicians, and such members
15 shall not be exempt from the quarantine laws of this state;

16 (4) Students of medicine who are studying in an
17 accredited school or college of medicine and who gratuitously
18 prescribe for and treat disease under the supervision of a licensed
19 physician;

20 (5) Physicians ~~of~~ who serve in the armed forces of the
21 United States or the United States Armed Forces or Public Health
22 Service or who are employed by the United States Department of
23 Veterans Affairs when acting in the line of such duty in this
24 state, or other federal agencies, if their practice is limited to
25 that service or employment;

1 (6) Physicians who are licensed in good standing to
2 practice medicine under the laws of another state when incidentally
3 called into this state or contacted via electronic or other medium
4 for consultation with a physician licensed in this state. For
5 purposes of this subdivision, consultation means evaluating the
6 medical data of the patient as provided by the treating physician
7 and rendering a recommendation to such treating physician as to the
8 method of treatment or analysis of the data. The interpretation of
9 a radiological image by a physician who specializes in radiology is
10 not a consultation;

11 (7) Physicians who are licensed in good standing to
12 practice medicine in another state but who, from such other
13 state, order diagnostic or therapeutic services on an irregular or
14 occasional basis, to be provided to an individual in this state, if
15 such physicians do not maintain and are not furnished for regular
16 use within this state any office or other place for the rendering
17 of professional services or the receipt of calls;

18 (8) Physicians who are licensed in good standing to
19 practice medicine in another state and who, on an irregular and
20 occasional basis, are granted temporary hospital privileges to
21 practice medicine and surgery at a hospital or other medical
22 facility licensed in this state;

23 ~~(9) Physicians who are licensed in good standing to~~
24 ~~practice medicine in another state and who have been recommended by~~
25 ~~the secretary of the board of examiners in the state of licensure~~

1 and granted temporary practice rights by the Board of Medicine and
2 Surgery, with the approval of the department, for a period not to
3 exceed three months in any twelve-month period;

4 ~~(10)~~ (9) Persons providing or instructing as to use of
5 braces, prosthetic appliances, crutches, contact lenses, and other
6 lenses and devices prescribed by a physician licensed to practice
7 medicine while working under the direction of such physician;

8 ~~(11)~~ (10) Dentists practicing their profession when
9 licensed and practicing in accordance with sections 71-183 to
10 71-191, the Dentistry Practice Act;

11 ~~(12)~~ (11) Optometrists practicing their profession when
12 licensed and practicing under and in accordance with sections
13 71-1,133 to 71-1,136, the Optometry Practice Act;

14 ~~(13)~~ (12) Osteopathic physicians practicing their
15 profession if licensed and practicing under and in accordance with
16 sections 71-1,137 and 71-1,141, 687 and 691 of this act;

17 ~~(14)~~ (13) Chiropractors practicing their profession if
18 licensed and practicing under sections 71-177 to 71-182, the
19 Chiropractic Practice Act;

20 ~~(15)~~ (14) Podiatrists practicing their profession when
21 licensed and practicing under and in accordance with sections
22 71-173 to 71-176, the Podiatry Practice Act;

23 ~~(16)~~ (15) Psychologists practicing their profession when
24 licensed and practicing under and in accordance with sections
25 71-1,206.01 to 71-1,206.35, the Psychology Practice Act;

1 ~~(17)(a)~~ Until July 1, 2007, advanced practice registered
2 nurses and certified registered nurse anesthetists practicing
3 their professions and practicing under and in accordance with
4 the Advanced Practice Registered Nurse Act, and

5 ~~(b)~~ On and after July 1, 2007, advanced (16) Advanced
6 practice registered nurses practicing in their clinical specialty
7 areas when licensed under the Advanced Practice Registered Nurse
8 Licensure Practice Act and practicing under and in accordance with
9 their respective certification practice acts;

10 ~~(18)~~ (17) Persons licensed or certified under the laws
11 of this state to practice a limited field of the healing art,
12 not specifically named in this section, when confining themselves
13 strictly to the field for which they are licensed or certified,
14 not assuming the title of physician, surgeon, or physician and
15 surgeon, and not professing or holding themselves out as qualified
16 to prescribe drugs in any form or to perform operative surgery;

17 ~~(19)~~ (18) Persons obtaining blood specimens while working
18 under an order of or protocols and procedures approved by a
19 physician, registered nurse, or other independent health care
20 practitioner licensed to practice by the state if the scope of
21 practice of that practitioner permits the practitioner to obtain
22 blood specimens; and

23 ~~(20)~~ (19) Other trained persons employed by a licensed
24 health care facility or health care service defined in the Health
25 Care Facility Licensure Act or clinical laboratory certified

1 pursuant to the federal Clinical Laboratories Improvement Act
2 of 1967, as amended, or Title XVIII or XIX of the federal Social
3 Security Act to withdraw human blood for scientific or medical
4 purposes.

5 Any person who has held or applied for a license to
6 practice medicine and surgery in this state, and such license
7 or application has been denied or such license has been refused
8 renewal or disciplined by order of limitation, suspension, or
9 revocation, shall be ineligible for the exceptions described in
10 subdivisions (5) through ~~(9)~~ (8) of this section until such license
11 or application is granted or such license is renewed or reinstated.
12 Every act or practice falling within the practice of medicine and
13 surgery as defined in section ~~71-1,102~~ 682 of this act and not
14 specially excepted in this section shall constitute the practice of
15 medicine and surgery and may be performed in this state only by
16 those licensed by law to practice medicine in Nebraska.

17 Sec. 684. Section 71-1,104, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-1,104 (1)~~ Each applicant for a license to practice
20 medicine and surgery shall:

21 ~~(a)(i)~~ (1)(a) Present proof that he or she is a
22 graduate of an accredited school or college of medicine, ~~(ii)~~
23 (b) if a foreign medical graduate, provide a copy of a permanent
24 certificate issued by the Educational Commission on Foreign Medical
25 Graduates that is currently effective and relates to such applicant

1 or provide such credentials as are necessary to certify that
2 such foreign medical graduate has successfully passed the Visa
3 Qualifying Examination or its successor or equivalent examination
4 required by the United States Department of Health and Human
5 Services and the United States ~~Immigration and Naturalization~~
6 ~~Service, Citizenship and Immigration Services, or (iii) (c) if~~
7 a graduate of a foreign medical school who has successfully
8 completed a program of American medical training designated as
9 the Fifth Pathway and who additionally has successfully passed
10 the Educational Commission on Foreign Medical Graduates examination
11 but has not yet received the permanent certificate attesting to
12 the same, provide such credentials as certify the same to the
13 Department of Health and Human Services Regulation and Licensure;

14 ~~(b) (2) Present proof that he or she has served at least~~
15 one year of graduate medical education approved by the ~~Board of~~
16 ~~Medicine and Surgery board~~ or, if a foreign medical graduate,
17 present proof that he or she has served at least three years of
18 graduate medical education approved by the board;

19 ~~(e) (3) Pass a licensing examination designated approved~~
20 by the board and the ~~department~~ covering appropriate medical
21 subjects; and

22 ~~(d) (4) Present proof satisfactory to the board~~
23 ~~department~~ that he or she, within the three years immediately
24 preceding the application for licensure, ~~(i) (a) has been in the~~
25 active practice of the profession of medicine and surgery in some

1 other state, a territory, the District of Columbia, or Canada
2 for a period of one year, ~~(ii)~~ (b) has had at least one year of
3 graduate medical education as described in subdivision ~~(1)(b)~~ (2)
4 of this section, ~~(iii)~~ (c) has completed continuing education in
5 medicine and surgery approved by the board, ~~(iv)~~ (d) has completed
6 a refresher course in medicine and surgery approved by the board,
7 or ~~(v)~~ (e) has completed the special purposes examination approved
8 by the board.

9 ~~(2) The department, upon the recommendation of the board,~~
10 ~~may waive any requirement for more than one year of approved~~
11 ~~graduate medical education, as set forth in subdivision (1)(b)~~
12 ~~of this section, if the applicant has served at least one year~~
13 ~~of graduate medical education approved by such board and if the~~
14 ~~following conditions are met:~~

15 ~~(a) The applicant meets all other qualifications for a~~
16 ~~license to practice medicine and surgery;~~

17 ~~(b) The applicant submits satisfactory proof that the~~
18 ~~issuance of a license based on the waiver of the requirement of~~
19 ~~more than one year of approved graduate medical education will not~~
20 ~~jeopardize the health, safety, and welfare of the citizens of this~~
21 ~~state; and~~

22 ~~(c) The applicant submits proof that he or she will enter~~
23 ~~into the practice of medicine in a health profession shortage area~~
24 ~~designated as such by the Nebraska Rural Health Advisory Commission~~
25 ~~immediately upon obtaining a license to practice medicine and~~

1 surgery based upon a waiver of the requirement for more than one
2 year of graduate medical education.

3 (3) A license issued on the basis of such a waiver
4 shall be subject to the limitation that the licensee continue in
5 practice in the health profession shortage area and such other
6 limitations, if any, deemed appropriate under the circumstances
7 by the Director of Regulation and Licensure, upon recommendation
8 of the board, which may include, but shall not be limited to,
9 supervision by a medical practitioner, training, education, and
10 scope of practice. After two years of practice under a limited
11 license issued on the basis of a waiver of the requirement of more
12 than one year of graduate medical education, a licensee may apply
13 to the department for removal of the limitations. The director,
14 upon the recommendation of the board, may grant or deny such
15 application or may continue the license with limitations.

16 (4) In addition to any other grounds for disciplinary
17 action against the license contained in the Uniform Licensing
18 Law, the department may take disciplinary action against a license
19 granted on the basis of a waiver of the requirement of more
20 than one year of graduate medical education for violation of the
21 limitations on the license. The department, upon the recommendation
22 of the board, shall adopt and promulgate rules and regulations for
23 the purpose of implementing and administering this section.

24 Sec. 685. (1) The department, with the recommendation of
25 the board, may waive any requirement for more than one year of

1 approved graduate medical education, as set forth in subdivision
2 (2) of section 684 of this act, if the applicant has served at
3 least one year of graduate medical education approved by the board
4 and if the following conditions are met:

5 (a) The applicant meets all other qualifications for a
6 license to practice medicine and surgery;

7 (b) The applicant submits satisfactory proof that the
8 issuance of a license based on the waiver of the requirement of
9 more than one year of approved graduate medical education will not
10 jeopardize the health, safety, and welfare of the citizens of this
11 state; and

12 (c) The applicant submits proof that he or she will enter
13 into the practice of medicine in a health profession shortage area
14 designated as such by the Nebraska Rural Health Advisory Commission
15 immediately upon obtaining a license to practice medicine and
16 surgery based upon a waiver of the requirement for more than one
17 year of graduate medical education.

18 (2) A license issued on the basis of such a waiver
19 shall be subject to the limitation that the licensee continue in
20 practice in the health profession shortage area and such other
21 limitations, if any, deemed appropriate under the circumstances
22 by the director, with the recommendation of the board, which may
23 include, but shall not be limited to, supervision by a medical
24 practitioner, training, education, and scope of practice. After two
25 years of practice under a limited license issued on the basis of

1 a waiver of the requirement of more than one year of graduate
2 medical education, a licensee may apply to the department for
3 removal of the limitations. The director, with the recommendation
4 of the board, may grant or deny such application or may continue
5 the license with limitations.

6 (3) In addition to any other grounds for disciplinary
7 action against the license contained in the Uniform Credentialing
8 Act, the department may take disciplinary action against a license
9 granted on the basis of a waiver of the requirement of more
10 than one year of graduate medical education for violation of the
11 limitations on the license.

12 Sec. 686. An applicant for a license to practice medicine
13 and surgery based on a license in another state or territory of the
14 United States or the District of Columbia shall meet the standards
15 set by the board pursuant to section 26 of this act, except that
16 an applicant who has not passed one of the licensing examinations
17 specified in the rules and regulations but has been duly licensed
18 to practice medicine and surgery in some other state or territory
19 of the United States of America or in the District of Columbia and
20 obtained that license based upon a state examination, as approved
21 by the board, may be issued a license by the department, with the
22 recommendation of the board, to practice medicine and surgery.

23 Sec. 687. Section 71-1,137, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-1,137 For the purpose of the Uniform Licensing Law,

1 (1) For purposes of the Uniform Credentialing Act, the following
2 classes of persons shall be deemed to be engaged in practice as
3 osteopathic physicians:

4 ~~(1)~~ (a) Persons publicly professing to be osteopathic
5 physicians or publicly professing to assume the duties incident to
6 the practice of osteopathic physicians; and ~~(2)~~ persons

7 (b) Persons who are graduates of a school or college of
8 osteopathic medicine and who treat human ailments by that system
9 of the healing art which was advocated and taught by the school or
10 college of osteopathic medicine from which such person graduated at
11 the time of his or her graduation as determined by the department,
12 with the recommendation of the board.

13 (2) ~~after consultation with the Board of Medicine and~~
14 ~~Surgery.~~ No license issued under this section to osteopathic
15 physicians under the Medicine and Surgery Practice Act shall
16 authorize the person so licensed to perform surgical procedures
17 except those usually performed by general practitioners, as
18 determined by the department, ~~upon consultation with the~~
19 recommendation of the board.

20 (3) Nothing in this section shall be construed to
21 prohibit an osteopathic physician licensed in accordance with
22 ~~this section~~ the act from serving as an assistant in surgery more
23 complex than that usually performed by general practitioners, as
24 determined ~~above,~~ by the department, with the recommendation of the
25 board, when such surgery is performed by an osteopathic physician

1 licensed pursuant to section ~~71-1,139.01~~ 690 of this act or by an
 2 osteopathic physician or doctor of medicine licensed pursuant to
 3 section ~~71-1,104. 684 of this act.~~ In no event shall this section
 4 or section ~~71-1,139.01~~ 690 of this act be construed as authorizing
 5 any physician to engage in any procedure which he or she is
 6 not qualified by training to perform according to the standards
 7 prevailing in the State of Nebraska at the time.

8 (4) Persons who are licensed to practice as osteopathic
 9 physicians who have demonstrated to the department, with the
 10 recommendation of the board, that they have acquired adequate
 11 training and knowledge for such purpose and have been so authorized
 12 by such board the department, with the recommendation of the
 13 board, may prescribe and administer drugs and medicines. The board
 14 shall provide procedures for determining an osteopathic physician's
 15 qualifications to prescribe and administer drugs and medicines and
 16 for issuing appropriate evidence of authority to do so.

17 Sec. 688. Section 71-1,138, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 ~~71-1,138~~ Section 71-1,137 shall not be construed to
 20 include For purposes of the Uniform Credentialing Act, the
 21 following classes of persons shall not be construed as engaged
 22 in practice as osteopathic physicians:

23 (1) Licensed physicians and surgeons, podiatrists,
 24 nurses, and dentists who are exclusively engaged in the practice
 25 of their respective professions;

1 (2) ~~physicians~~ Physicians and surgeons who serve in the
2 armed forces of the United States Armed Forces or the United States
3 Public Health Service or who are employed by the United States
4 Department of Veterans Affairs or other federal agencies, if their
5 practice is limited to that service or employment; when acting in
6 the line of duty in this state; and

7 (3) ~~osteopathic~~ Osteopathic physicians licensed in
8 another state when incidentally called into this state in
9 consultation with a licensed physician or an osteopathic physician
10 licensed in this state.

11 Sec. 689. Section 71-1,139, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-1,139~~ Every applicant for a license to practice as an
14 osteopathic physician shall (1) present proof of having completed
15 a four-year course in an accredited high school or its equivalent,
16 (2) present proof of having graduated from an accredited school
17 or college of osteopathic medicine, and (3) pass an examination,
18 as prescribed by the Board of Medicine and Surgery, approved by
19 the board, in the science of osteopathy and the practice of the
20 same. ~~The application for a license to practice as an osteopathic~~
21 ~~physician shall include the applicant's social security number.~~

22 The department shall accept, in lieu of the examination
23 provided in subdivision (3) of this section, a certificate of
24 examination issued by the National Board of Osteopathic Examiners
25 of the United States of America. Every applicant for a license upon

1 the basis of such certificate shall be required to pay the fees
2 prescribed for licenses issued to osteopathic physicians without
3 examination, based upon a license by examination held in another
4 state or territory or the District of Columbia.

5 Sec. 690. Section 71-1,139.01, Reissue Revised Statutes
6 of Nebraska, is amended to read:

7 ~~71-1,139.01~~ (1) If a person (a) has graduated from an
8 accredited school or college of osteopathic medicine since January
9 1, 1963, (b) meets all statutory requirements for licensure as
10 an osteopathic physician, (c) has served one year of internship
11 or its equivalent at an institution approved for such training
12 by the Board of Medicine and Surgery, board, (d) after his or
13 her internship, has taken and passed the examination provided
14 in section ~~71-1,104,~~ 684 of this act, and (e) presents proof
15 satisfactory to the department, with the recommendation of the
16 board, that he or she, within the three years immediately preceding
17 the application for licensure, (i) has been in the active practice
18 of the profession of osteopathic medicine and surgery in some
19 other state, a territory, the District of Columbia, or Canada for
20 a period of one year, (ii) has had one year of graduate medical
21 education as described in subdivision (1)(c) of this section,
22 (iii) has completed continuing education in medicine and surgery or
23 osteopathic medicine and surgery approved by the board, (iv) has
24 completed a refresher course in medicine and surgery or osteopathic
25 medicine and surgery approved by the board, or (v) has completed

1 the special purposes examination approved by the board, such
2 person, upon making application therefor, shall receive a license
3 as a Doctor of Osteopathic Medicine and Surgery which shall qualify
4 such person to practice osteopathic medicine and surgery.

5 ~~(2) The department shall accept, in lieu of the~~
6 ~~examination provided in subdivision (1)(d) of this section,~~
7 ~~a certificate of examination issued by the National Board of~~
8 ~~Osteopathic Examiners of the United States of America. Every~~
9 ~~applicant for a license upon the basis of such certificate shall~~
10 ~~be required to pay the fees prescribed for licenses issued in~~
11 ~~osteopathic medicine and surgery without examination, based upon a~~
12 ~~license by examination held in another state or territory or the~~
13 ~~District of Columbia.~~

14 ~~(3) (2) With respect to persons who have graduated from~~
15 ~~an accredited school or college of osteopathic medicine prior to~~
16 ~~January 1, 1963, the department, upon the approval of the Board~~
17 ~~of Medicine and Surgery, with the recommendation of the board, may~~
18 ~~issue a license to practice osteopathic medicine and surgery to any~~
19 ~~such graduate who meets all the requirements for issuance of such~~
20 ~~license except graduation from an accredited school or college of~~
21 ~~osteopathic medicine after January 1, 1963., and whose application~~
22 ~~has been approved by the board.~~

23 Sec. 691. Section 71-1,141, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-1,141~~ (1) With respect to licenses issued pursuant

1 to sections ~~71-1,139~~ and ~~71-1,139.01~~ 689 and 690 of this act and
2 any renewals thereof, the ~~Department of Health and Human Services~~
3 ~~Regulation and Licensure~~ department shall designate the extent of
4 such practice as follows:

5 ~~(1)~~ (a) License to practice as an osteopathic physician;

6 or

7 ~~(2)~~ (b) License to practice osteopathic medicine and
8 surgery.

9 (2) Every license issued under sections ~~71-1,139~~ and
10 ~~71-1,139.01~~ 689 and 690 of this act shall confer upon the holder
11 thereof the right to practice osteopathic medicine and surgery
12 as taught in the schools or colleges of osteopathic medicine
13 recognized by the American Osteopathic Association in the manner
14 and to the extent provided by such license.

15 Sec. 692. An applicant for a license to practice
16 osteopathic medicine and surgery based on a license in another
17 state or territory of the United States or the District of Columbia
18 shall meet the standards set by the board pursuant to section 26 of
19 this act, except that an applicant who has not passed one of the
20 licensing examinations specified in the rules and regulations but
21 has been duly licensed to practice osteopathic medicine and surgery
22 in some other state or territory of the United States of America
23 or in the District of Columbia and obtained that license based upon
24 a state examination, as approved by the board, may be issued a
25 license by the department, upon the recommendation of the board, to

1 practice osteopathic medicine and surgery.

2 Sec. 693. Applicants for licensure in medicine and
3 surgery and osteopathic medicine and surgery shall pass the
4 licensing examination. An applicant who fails to pass any part of
5 the licensing examination within four attempts shall complete one
6 additional year of postgraduate medical education at an accredited
7 school or college of medicine or osteopathic medicine. All parts
8 of the licensing examination shall be successfully completed within
9 ten years. An applicant who fails to successfully complete the
10 licensing examination within the time allowed shall retake that
11 part of the examination which was not completed within the time
12 allowed.

13 Sec. 694. A physician locum tenens may be issued by
14 the department, with the recommendation of the board, to an
15 individual who holds an active license to practice medicine and
16 surgery or osteopathic medicine and surgery in another state when
17 circumstances indicate a need for the issuance of a physician locum
18 tenens in the State of Nebraska. A physician locum tenens may be
19 issued for a period not to exceed ninety days in any twelve-month
20 period.

21 Sec. 695. In addition to the grounds for disciplinary
22 action found in sections 78 and 79 of this act, a license to
23 practice medicine and surgery or osteopathic medicine and surgery
24 may be denied, refused renewal, limited, revoked, or suspended or
25 have other disciplinary measures taken against it in accordance

1 with section 96 of this act when the applicant or licensee fails to
2 comply with the provisions of section 71-603.01, 71-604, 71-605, or
3 71-606 relating to the signing of birth and death certificates.

4 Sec. 696. Section 71-1,107.03, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,107.03~~ The holder of a temporary educational permit
7 or of a visiting faculty permit shall be entitled to practice
8 medicine and surgery and any of its allied specialties, including
9 prescribing medicine and ~~narcotics,~~ controlled substances, while
10 serving in a supervised educational program or in an approved
11 graduate medical education, a fellowship, or a refresher course
12 in program conducted by an accredited hospital in the State of
13 Nebraska or by an accredited school or college of medicine of
14 the State of Nebraska, but neither the holder of a temporary
15 educational permit nor the holder of a visiting faculty permit
16 shall be qualified to engage in the practice of medicine and
17 surgery or any of its allied specialties within the State of
18 Nebraska and outside of the assigned ~~training or teaching~~ graduate
19 medical education, fellowship, refresher course, teaching program,
20 or research program.

21 Sec. 697. Section 71-1,107.07, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,107.07~~ Before granting any temporary educational
24 permit, the Department of Health and Human Services Regulation
25 and Licensure department, with the recommendation of the board,

1 shall ascertain by evidence satisfactory to such board that an
2 accredited hospital or school or college of medicine in the
3 State of Nebraska that an authorized provider of graduate medical
4 education, a fellowship, or a refresher course has requested the
5 issuance of a temporary educational permit for an applicant to
6 serve as a graduate student participate in its approved program
7 graduate medical education, fellowship, or refresher course for
8 the period involved, and any application for the issuance of such
9 permit shall be signed by the applicant requesting that such permit
10 be issued to him or her and shall designate the specified approved
11 graduate medical educational program with respect to which such
12 permit shall apply.

13 Sec. 698. Section 71-1,107.08, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 ~~71-1,107.08~~ Before a visiting faculty permit shall be is
16 issued, the Department of Health and Human Services Regulation and
17 Licensure department, with the recommendation of the board, shall
18 determine on the basis of evidence satisfactory to the department
19 that an accredited school or college of medicine in the State of
20 Nebraska has requested issuance of such a visiting faculty permit
21 for the individual involved to serve as a member of the faculty
22 of such school or college of medicine, and that the applicant for
23 such permit has met the requirements of sections 71-1,107.01 to
24 ~~71-1,107.14~~. Any application for issuing a visiting faculty permit
25 shall be signed by the applicant to whom such permit is to be

1 issued and shall designate the accredited school or college of
2 medicine where such applicant proposes to serve as a member of
3 the faculty and shall outline the faculty duties to be performed
4 pursuant to the permit.

5 Sec. 699. Section 71-1,107.09, Reissue Revised Statutes
6 of Nebraska, is amended to read:

7 ~~71-1,107.09~~ The recommendation of the Board of Medicine
8 and Surgery board for the issuance of any temporary educational
9 permits or any visiting faculty permits shall be made at regular
10 meetings of such board, but the ~~president~~ chairperson or one other
11 member of the board and its executive secretary jointly shall have
12 the power to recommend the issuance of such permits between the
13 meetings of the board. ~~7~~ which permits shall be subject to approval
14 ~~or disapproval at the next subsequent meeting of the board.~~

15 Sec. 700. Section 71-1,107.06, Reissue Revised Statutes
16 of Nebraska, is amended to read:

17 ~~71-1,107.06~~ The duration of any temporary educational or
18 visiting faculty permit issued pursuant to sections 71-1,107.01
19 ~~to 71-1,107.14~~ shall be determined by the Department of Health
20 and Human Services Regulation and Licensure department but in
21 no case shall it be in excess of one year. The permit may be
22 renewed annually as long as the holder of a temporary educational
23 permit is still enrolled and participating in the program of
24 supervised educational training or as long as the holder of a
25 visiting faculty permit is still teaching students of medicine or

1 ~~conducting research. from time to time at the discretion of the~~
2 ~~Department of Health and Human Services Regulation and Licensure~~
3 ~~but in no case shall it be renewed for more than five one-year~~
4 ~~periods. The department may issue to all qualified graduates of~~
5 ~~accredited colleges of medicine or accredited schools or colleges~~
6 ~~of osteopathic medicine, who are eligible for the examination~~
7 ~~provided in section 71-1,104, and who make application for such~~
8 ~~examination, a temporary educational permit, without charge. Such~~
9 ~~permit shall be issued only for the duration of the time between~~
10 ~~the date of the examination and the date of licensure granted~~
11 ~~as a result of such examination. Any person issued a temporary~~
12 ~~educational permit without charge shall meet all requirements~~
13 ~~provided for in sections 71-1,107.01 to 71-1,107.13, except the~~
14 ~~required fee, and such exemption is only for the period of time~~
15 ~~between the examination date and the licensing date and for only~~
16 ~~those individuals who take the examination as provided in section~~
17 ~~71-1,104.~~

18 Sec. 701. Section 71-1,107.11, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 ~~71-1,107.11~~ Any temporary educational or visiting faculty
21 permit granted under the authority of sections 71-1,107.01
22 to 71-1,107.14 may be suspended, limited, or revoked by the
23 department, with the ~~upon~~ recommendation of the Board of Medicine
24 and Surgery board, at any time upon a finding that the reasons for
25 issuing such permit no longer exist or that the person to whom such

1 permit has been issued is no longer qualified to hold such permit.

2 Sec. 702. Section 71-1,107.13, Reissue Revised Statutes
3 of Nebraska, is amended to read:

4 ~~71-1,107.13~~ A temporary educational permit may be issued
5 to graduates of foreign schools or colleges of medicine or to
6 individuals if the applicant, in addition to meeting the other
7 requirements for the issuance of such permit, presents to the
8 department a copy of a permanent certificate of the Educational
9 Commission on Foreign Medical Graduates currently effective and
10 relating to such applicant or, in lieu thereof, such credentials
11 as are necessary to certify to successful passage of the Visa
12 Qualifying Examination, or its successor or equivalent examination,
13 required by the United States Department of Health and Human
14 Services and the United States ~~Immigration and Naturalization~~
15 ~~Service~~ Citizenship and Immigration Services or, if a graduate of
16 a foreign medical school who has successfully completed a program
17 of American medical training designated as the Fifth Pathway and
18 who additionally has successfully passed the Educational Commission
19 on Foreign Medical Graduates examination but has not yet received
20 a permanent certificate attesting to the same, and provides such
21 credentials as are necessary to certify the same to the department,
22 at such time as the department, with the ~~upon~~ recommendation of
23 the ~~Board of Medicine and Surgery~~ board, determines, and, if so
24 directed by the department, passes an examination ~~prescribed by the~~
25 ~~department upon recommendation of~~ approved by the board to measure

1 his or her clinical competence to proceed to advanced training
 2 before advancing beyond the initial phase of the training program,
 3 and if such examination is required, pays the required fee.

4 Sec. 703. Section 71-1,107.14, Reissue Revised Statutes
 5 of Nebraska, is amended to read:

6 ~~71-1,107.14~~ A visiting faculty permit may be issued
 7 to graduates of foreign schools or colleges of medicine or to
 8 individuals if an accredited college or school of medicine in the
 9 State of Nebraska has requested that such permit be issued. It
 10 shall not be necessary for such applicant to provide a certificate
 11 of the Educational Commission on Foreign Medical Graduates as
 12 required in the case of temporary educational permits. If directed
 13 by the department an applicant for a visiting faculty permit may
 14 be required to pass an examination ~~prescribed by the department~~
 15 ~~upon recommendation of the Board of Medicine and Surgery~~ approved
 16 by the board to measure his or her clinical competence to practice
 17 medicine and if such examination is required the applicant shall
 18 pay the required fee.

19 Sec. 704. Section 71-1,107.15, Reissue Revised Statutes
 20 of Nebraska, is amended to read:

21 ~~71-1,107.15~~ The Legislature finds that:

22 (1) ~~That in~~ In its concern with the geographic
 23 maldistribution of health care services in Nebraska it is essential
 24 to develop additional health ~~manpower,~~ personnel; and

25 (2) ~~That it~~ It is essential to encourage the more

1 effective utilization of the skills of physicians by enabling them
2 to delegate health care tasks to qualified physician assistants
3 when such delegation is consistent with the patient's health and
4 welfare. ~~and~~

5 ~~(3) That sections 71-1,107.15 to 71-1,107.30 are~~
6 ~~established~~ It is the intent of the Legislature to encourage the
7 utilization of such physician assistants by physicians.

8 Sec. 705. Section 71-1,107.17, Reissue Revised Statutes
9 of Nebraska, is amended to read:

10 ~~71-1,107.17~~ (1) Notwithstanding any other provision of
11 law, a physician assistant may perform medical services when he
12 or she renders such services under the supervision of a licensed
13 physician or group of physicians approved by the department, with
14 the recommendation of the board, in the specialty area or areas
15 for which the physician assistant shall be trained or experienced.
16 Any physician assistant licensed under ~~sections 71-1,107.15 to~~
17 ~~71-1,107.30~~ the Medicine and Surgery Practice Act to perform
18 services may perform those services only:

19 (a) In the office of the supervising physician where such
20 physician maintains his or her primary practice;

21 (b) In any other office which is operated by the
22 supervising physician with the personal presence of the supervising
23 physician. The physician assistant may function without the
24 personal presence of the supervising physician in an office
25 other than where such physician maintains his or her primary

1 practice as provided in subsection (2) of this section and when
2 approved on an individual basis by the department, with the
3 recommendation of the board. Any such approval shall require site
4 visits by the supervising physician, regular reporting to the
5 supervising physician by the physician assistant, and arrangements
6 for supervision at all times by the supervising physician which are
7 sufficient to provide quality medical care;

8 (c) In a hospital, with the approval of the governing
9 board of such hospital, where the supervising physician is a
10 member of the staff and the physician assistant is subject to the
11 rules and regulations of the hospital. Such rules and regulations
12 may include, but need not be limited to, reasonable requirements
13 that physician assistants and the supervising physician maintain
14 professional liability insurance with such coverage and limits
15 as may be established by the hospital governing board, upon the
16 recommendation of the medical staff; or

17 (d) On calls outside such offices, when authorized by the
18 supervising physician and with the approval of the governing board
19 of any affected hospital.

20 (2) The department, with the recommendation of the board,
21 shall adopt and promulgate rules and regulations establishing
22 minimum requirements for the personal presence of the supervising
23 physician, stated in hours or percentage of practice time. The
24 board may provide different minimum requirements for the personal
25 presence of the supervising physician based on the geographic

1 location of the supervising physician's primary and other practice
2 sites and other factors the board deems relevant.

3 Sec. 706. Section 71-1,107.18, Reissue Revised Statutes
4 of Nebraska, is amended to read:

5 ~~71-1,107.18~~ Notwithstanding any other provision of law, a
6 trainee may perform medical services when he or she renders such
7 services within the scope of an approved program.

8 Sec. 707. Section 71-1,107.19, Reissue Revised Statutes
9 of Nebraska, is amended to read:

10 ~~71-1,107.19~~ (1) The department, with the recommendation
11 of the board, shall issue licenses to persons who are graduates
12 of physician assistant programs approved by the board and have
13 satisfactorily completed a proficiency examination.

14 (2) The ~~board~~ department, with the recommendation of
15 the board, shall issue temporary licenses to persons who have
16 successfully completed an approved program for the education
17 and training of physician assistants but have not yet passed a
18 proficiency examination. Any temporary license issued pursuant to
19 this subsection shall be issued for a period not to exceed one
20 year and under such conditions as ~~the board determines, with the~~
21 ~~approval of the department. The~~ determined by the department, with
22 the recommendation of the board. Upon a showing of good cause,
23 the temporary license may be extended by the board, with the
24 ~~approval of the department, upon a showing of good cause. with the~~
25 recommendation of the board.

1 (3) The board may recognize groups of specialty
2 classifications of training for physician assistants. These
3 classifications shall reflect the training and experience of the
4 physician assistant. The physician assistant may receive training
5 in one or more such classifications which shall be shown on the
6 license issued.

7 (4) Physician assistants approved by the board prior to
8 April 16, 1985, shall not be required to complete the proficiency
9 examination.

10 ~~(5) A physician assistant holding a certificate issued~~
11 ~~under this section prior to April 16, 1996, may continue to~~
12 ~~practice under the certificate until it expires and shall be~~
13 ~~considered licensed for purposes of the statutes and rules and~~
14 ~~regulations of Nebraska. Upon expiration of the certificate, the~~
15 ~~physician assistant may apply for a license and shall be granted~~
16 ~~a license if he or she would otherwise qualify for renewal of a~~
17 ~~certificate prior to April 16, 1996. Any reference to certified~~
18 ~~physician assistant in the rules and regulations of the department~~
19 ~~prior to April 16, 1996, shall be construed to refer to licensed~~
20 ~~physician assistant until changed by the department.~~

21 Sec. 708. Section 71-1,107.20, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,107.20~~ (1) The board department, with the
24 recommendation of the board, shall formulate guidelines for the
25 consideration of applications by a licensed physician or physicians

1 to supervise physician assistants. Any application made by a
2 physician or physicians shall include all of the following:

3 (a) The qualifications, including related experience, of
4 the physician assistant intended to be employed;

5 (b) The professional background and specialty of the
6 physician or physicians; and

7 (c) A description by the physician of his or her, or
8 physicians of their, practice and the way in which the assistant or
9 assistants shall be utilized. The application shall provide for the
10 personal presence of the supervising physician in conformance with
11 requirements established by the department, with the recommendation
12 of the board, under section ~~71-1,107.17.~~ 705 of this act.

13 (2) The department, with the recommendation of the
14 board, with the concurrence of the department, shall approve
15 an application by a licensed physician to supervise a physician
16 assistant when the ~~board~~ department, with the recommendation of
17 the board, is satisfied that the proposed assistant is a graduate
18 of an approved program, has satisfactorily completed a proficiency
19 examination, and is fully qualified to perform medical services
20 under the responsible supervision of a licensed physician. The
21 public shall be adequately protected by the arrangement proposed in
22 the application.

23 (3) The department, with the recommendation of the board,
24 shall ~~certify~~ approve no more than two physician assistants for
25 any practicing physician, except that this limitation may be waived

1 by the department, with the recommendation of the board, upon a
2 showing of good cause by the practicing physician.

3 Sec. 709. Section 71-1,107.23, Reissue Revised Statutes
4 of Nebraska, is amended to read:

5 ~~71-1,107.23~~ The board, with the concurrence of the
6 department, may limit, deny, suspend, or revoke the certificate of
7 approval to supervise a physician assistant held by any physician
8 when it finds that sections 71-1,107.15 to 71-1,107.30 or any of
9 the rules and regulations adopted and promulgated by the board
10 thereunder are not being complied with. In cases of failure to
11 pay the required fees, denial shall be automatic. Any limitation,
12 denial, suspension, or revocation may be appealed, and the appeal
13 shall be in accordance with the Administrative Procedure Act.

14 If the supervision of a physician assistant is terminated
15 by the physician or physician assistant, the physician shall notify
16 the department of such termination. A physician who thereafter
17 assumes the responsibility for such supervision shall obtain a
18 certificate of approval to supervise a physician assistant from
19 the department prior to the use of the physician assistant in the
20 practice of medicine.

21 Sec. 710. Section 71-1,107.21, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,107.21~~ Any person who has not been approved licensed
24 by the department, with the recommendation of the board, with the
25 ~~concurrence of the department,~~ and who holds himself or herself out

1 as a physician assistant, or who uses any other term to indicate or
2 imply that he or she is a physician assistant, shall be guilty of a
3 Class IV felony.

4 Sec. 711. Section 71-1,107.28, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,107.28~~ Any physician or physician groups utilizing
7 physician assistants shall be liable for any negligent acts
8 or omissions of physician assistants while acting under their
9 supervision and control.

10 Sec. 712. Section 71-1,107.29, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 ~~71-1,107.29~~ Any physician assistant who is licensed
13 and who renders services under the supervision and control of
14 a licensed physician as provided by sections ~~71-1,107.15~~ to
15 ~~71-1,107.30~~ the Medicine and Surgery Practice Act shall not be
16 construed to be engaged in the unauthorized practice of medicine.

17 Sec. 713. Section 71-1,107.30, Revised Statutes
18 Cumulative Supplement, 2006, is amended to read:

19 ~~71-1,107.30~~ A physician assistant may prescribe drugs and
20 devices as delegated to do so by a supervising physician. Any
21 limitation placed by the supervising physician on the prescribing
22 authority of the physician assistant shall be recorded on the
23 physician assistant's scope of practice agreement established
24 pursuant to rules and regulations adopted and promulgated under
25 ~~section 71-1,107.24.~~ the Medicine and Surgery Practice Act. All

1 prescriptions and prescription container labels shall bear the
2 name of the supervising physician and the physician assistant.
3 A physician assistant to whom has been delegated the authority
4 to prescribe controlled substances shall obtain a federal Drug
5 Enforcement Administration registration number. When prescribing
6 Schedule II controlled substances, the prescription container label
7 shall bear all information required by the federal Controlled
8 Substances Act of 1970.

9 Sec. 714. Section 71-1,107.25, Reissue Revised Statutes
10 of Nebraska, is amended to read:

11 ~~71-1,107.25~~ (1) There is hereby created the Physician
12 Assistant Committee which shall review and make recommendations to
13 the board regarding all matters relating to physician assistants
14 that come before the board. Such matters shall include, but not be
15 limited to, ~~(1)~~ (a) applications for licensure, ~~(2)~~ (b) physician
16 assistant education, ~~(3)~~ (c) scope of practice, ~~(4)~~ (d) proceedings
17 arising pursuant to ~~section 71-1,107.23,~~ ~~(5)~~ sections 78 and 79
18 of this act, (e) physician assistant licensure and supervising
19 physician requirements, and ~~(6)~~ (f) continuing competency. The
20 committee shall be directly responsible to the board.

21 (2) The committee shall be appointed by the State Board
22 of Health and shall be composed of two physician assistants, one
23 supervising physician, one member of the Board of Medicine and
24 Surgery, and one public member. The chairperson of the committee
25 shall be elected by a majority vote of the committee members.

1 (3) At the expiration of the four-year terms of the
2 members serving on December 1, 2008, All appointments shall be
3 for ~~four-year~~ five-year terms. ~~at staggered intervals.~~ Members
4 shall serve no more than two consecutive full five-year terms.
5 Reappointments shall be made by the State Board of Health.

6 (4) The committee shall meet on a regular basis and
7 committee members shall, in addition to necessary traveling and
8 lodging expenses, receive a per diem for each day actually engaged
9 in the discharge of his or her duties, including compensation for
10 the time spent in traveling to and from the place of conducting
11 business. Traveling and lodging expenses shall be reimbursed
12 ~~receive reimbursement for time and travel expenditures~~ on the same
13 basis as provided in sections 81-1174 to 81-1177. The compensation
14 shall not exceed fifty dollars per day and shall be determined by
15 the committee with the approval of the department.

16 Sec. 715. Section 71-1,345, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-1,345 Sections 71-1,344 to 71-1,349~~ The provisions of
19 the Medicine and Surgery Practice Act relating to acupuncture do
20 not apply to:

21 (1) Any other health care practitioner credentialed under
22 the ~~Uniform Licensing Law~~ Credentialing Act practicing within the
23 scope of his or her profession;

24 (2) A student practicing acupuncture under the
25 supervision of a person licensed to practice acupuncture under the

1 Uniform ~~Licensing Law~~ Credentialing Act as part of a course of
2 study approved by the department; or

3 (3) The practice of acupuncture by any person licensed or
4 certified to practice acupuncture in any other jurisdiction when
5 practicing in an educational seminar sponsored by a state-approved
6 acupuncture or professional organization if the practice is
7 supervised directly by a person licensed to practice acupuncture
8 under the Uniform ~~Licensing Law~~ Credentialing Act.

9 Sec. 716. Section 71-1,346, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-1,346~~ It is unlawful to practice acupuncture on a
12 person in this state unless the acupuncturist is licensed to
13 practice acupuncture under the Uniform ~~Licensing Law~~ Credentialing
14 Act and has been presented by the patient with a prior
15 letter of referral from or a medical diagnosis and evaluation
16 completed by a practitioner licensed to practice medicine
17 and surgery or osteopathic medicine and surgery within ninety
18 days immediately preceding the date of an initial acupuncture
19 treatment. An acupuncturist licensed under the Uniform ~~Licensing~~
20 Law Credentialing Act shall provide the same standard of care to
21 patients as that provided by a person licensed under the Uniform
22 ~~Licensing Law~~ Credentialing Act to practice medicine and surgery,
23 osteopathy, or osteopathic medicine and surgery.

24 Sec. 717. Section 71-1,347, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-1,347~~ The practice of acupuncture shall not be
2 performed upon any person except with the voluntary and informed
3 consent of such person. Information provided in connection with
4 obtaining such informed consent shall include, but not be limited
5 to, the following:

6 (1) The distinctions and differences between the practice
7 of acupuncture and the practice of medicine;

8 (2) The disclosure that an acupuncturist is not licensed
9 to practice medicine or to make a medical diagnosis of the person's
10 disease or condition and that a physician should be consulted for
11 such medical diagnosis;

12 (3) The nature and the purpose of the acupuncture
13 treatment; and

14 (4) Any medical or other risks associated with such
15 treatment.

16 Sec. 718. Section 71-1,348, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-1,348~~ An applicant for an initial license to practice
19 acupuncture shall apply to the department on forms provided by the
20 department. At the time of application for an initial license to
21 practice acupuncture, the applicant shall present to the department
22 proof that he or she:

23 ~~(1) Is nineteen years of age or older and is of good~~
24 ~~moral character;~~

25 ~~(2)~~ (1) Has graduated from, after having successfully

1 completed the acupuncture curriculum requirements of, a formal,
2 full-time acupuncture program at a ~~board-approved~~ university,
3 college, or school of acupuncture approved by the board which
4 includes at least one thousand seven hundred twenty-five hours of
5 entry-level acupuncture education consisting of a minimum of one
6 thousand didactic and five hundred clinical hours;

7 ~~(3)~~ (2) Has successfully passed an acupuncture
8 examination approved by the board which shall include a
9 comprehensive written examination in acupuncture theory, diagnosis
10 and treatment technique, and point location; and

11 ~~(4)~~ (3) Has successfully completed a clean-needle
12 technique course approved by the board.

13 Sec. 719. The department shall establish and collect fees
14 for credentialing under the Medicine and Surgery Practice Act as
15 provided in sections 51 to 57 of this act.

16 Sec. 720. Sections 720 to 756 of this act shall be known
17 and may be cited as the Mental Health Practice Act.

18 Sec. 721. Section 71-1,295, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-1,295~~ The Legislature finds that, because many mental
21 health practitioners are not regulated in this state, anyone may
22 offer mental health services by using an unrestricted title and
23 that there is no means for identifying qualified practitioners, for
24 enforcing professional standards, or for holding such practitioners
25 accountable for their actions. Therefor the Legislature determines

1 that, in the interest of consumer protection and for the protection
2 of public health, safety, and welfare, individuals should be
3 provided a means by which they can be assured that their selection
4 of a mental health practitioner is based on sound criteria and
5 that the activities of those persons who by any title may offer or
6 deliver therapeutic mental health services should be regulated.

7 The purpose of licensing mental health practitioners is
8 to provide for an omnibus title for such persons and to provide for
9 associated certification of social workers, master social workers,
10 professional counselors, and marriage and family therapists.

11 Sec. 722. Section 71-1,296, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-1,296~~ For purposes of sections ~~71-1,295 to 71-1,338,~~
14 the Mental Health Practice Act and elsewhere in the Uniform
15 Credentialing Act, unless the context otherwise requires, the
16 definitions found in sections ~~71-1,297 to 71-1,311~~ shall be used.
17 723 to 737 of this act apply.

18 Sec. 723. Section 71-1,297, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-1,297~~ Approved educational program shall mean means a
21 program of education and training approved by the board. Such
22 approval may be based on the program's accreditation by an
23 accrediting agency or on standards established by the board in
24 the manner and form provided in section ~~71-128.~~ 33 of this act.

25 Sec. 724. Section 71-1,298, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1,298~~ Board ~~shall mean~~ means the Board of Mental
3 Health Practice.

4 Sec. 725. Section 71-1,299, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-1,299~~ Certified marriage and family therapist ~~shall~~
7 ~~mean~~ means a person who is certified to practice marriage and
8 family therapy pursuant to the Uniform ~~Licensing Law~~ Credentialing
9 Act and who holds a current certificate issued by the department.

10 Sec. 726. Section 71-1,300, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-1,300~~ Certified master social work ~~shall mean~~ means
13 the specialized application of social work values, knowledge,
14 principles, and methods in all areas of social work practice.
15 Certified master social work may include the private, independent,
16 and autonomous practice of social work.

17 Sec. 727. Section 71-1,301, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-1,301~~ Certified master social worker ~~shall mean~~ means
20 a person who meets the standards established in subsection (1)
21 of section ~~71-1,319~~ 745 of this act and who holds a current
22 certificate issued by the department.

23 Sec. 728. Section 71-1,302, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-1,302~~ Certified professional counselor ~~shall mean~~

1 means a person who is certified to practice professional counseling
2 pursuant to the Uniform ~~Licensing Law~~ Credentialing Act and who
3 holds a current certificate issued by the department.

4 Sec. 729. Section 71-1,303, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-1,303~~ Certified social work ~~shall mean~~ means the
7 professional application of social work values, knowledge,
8 principles, and methods in all areas of social work practice,
9 except that certified social work shall not include private,
10 independent, and autonomous practice of social work.

11 Sec. 730. Section 71-1,304, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-1,304~~ Certified social worker ~~shall mean~~ means a
14 person who meets the standards established in subsection (2)
15 of section ~~71-1,319~~ 745 of this act and who holds a current
16 certificate issued by the department.

17 Sec. 731. Section 71-1,305, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-1,305~~ Consultation ~~shall mean~~ means a professional
20 collaborative relationship between a licensed mental health
21 practitioner and a consultant who is a psychologist licensed
22 to engage in the practice of psychology as provided in section
23 ~~71-1,206.14~~ 1045 of this act or a qualified physician in which
24 (1) the consultant makes a diagnosis based on information supplied
25 by the licensed mental health practitioner and any additional

1 assessment deemed necessary by the consultant and (2) the
2 consultant and the licensed mental health practitioner jointly
3 develop a treatment plan which indicates the responsibility of each
4 professional for implementing elements of the plan, updating the
5 plan, and assessing the client's progress.

6 Sec. 732. Section 71-1,306, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~71-1,306~~ Marriage and family therapy ~~shall mean~~ means
9 the assessment and treatment of mental and emotional disorders,
10 whether cognitive, affective, or behavioral, within the context of
11 marriage and family systems through the professional application of
12 psychotherapeutic and family systems theories and techniques in the
13 delivery of services to individuals, couples, and families for the
14 purpose of treating such disorders.

15 Sec. 733. Section 71-1,307, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-1,307~~ Mental health practice ~~shall mean~~ means the
18 provision of treatment, assessment, psychotherapy, counseling, or
19 equivalent activities to individuals, couples, families, or groups
20 for behavioral, cognitive, social, mental, or emotional disorders,
21 including interpersonal or personal situations.

22 Mental health practice ~~shall~~ does not include the
23 practice of psychology or medicine, prescribing drugs or
24 electroconvulsive therapy, treating physical disease, injury, or
25 deformity, diagnosing major mental illness or disorder except

1 in consultation with a qualified physician or a psychologist
2 licensed to engage in the practice of psychology as provided
3 in section ~~71-1,206.14,~~ 1045 of this act, measuring personality
4 or intelligence for the purpose of diagnosis or treatment
5 planning, using psychotherapy with individuals suspected of
6 having major mental or emotional disorders except in consultation
7 with a qualified physician or licensed psychologist, or using
8 psychotherapy to treat the concomitants of organic illness
9 except in consultation with a qualified physician or licensed
10 psychologist.

11 Mental health practice ~~shall include~~ includes the initial
12 assessment of organic mental or emotional disorders for the purpose
13 of referral or consultation.

14 Nothing in sections ~~71-1,306, 71-1,310, and 71-1,311~~
15 732, 736, and 737 of this act shall be deemed to constitute
16 authorization to engage in activities beyond those described in
17 this section. Persons certified under ~~sections 71-1,295 to 71-1,338~~
18 the Mental Health Practice Act but not licensed under section
19 ~~71-1,314~~ 740 of this act shall not engage in mental health
20 practice.

21 Sec. 734. Section 71-1,308, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-1,308~~ Mental health practitioner ~~shall mean~~ means a
24 person who holds himself or herself out as a person qualified
25 to engage in mental health practice or a person who offers or

1 renders mental health practice services. A person who is licensed
2 as a mental health practitioner and certified as a master social
3 worker may use the title licensed clinical social worker. A person
4 who is licensed as a mental health practitioner and certified as
5 a professional counselor may use the title licensed professional
6 counselor. A person who is licensed as a mental health practitioner
7 and certified as a marriage and family therapist may use the
8 title licensed marriage and family therapist. No person shall use
9 the title licensed clinical social worker, licensed professional
10 counselor, or licensed marriage and family therapist unless he or
11 she is licensed and certified as provided in this section.

12 A mental health practitioner shall not represent himself
13 or herself as a physician or psychologist and shall not represent
14 his or her services as being medical or psychological in nature.

15 Sec. 735. Section 71-1,309, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~71-1,309~~ Mental health program shall mean means an
18 educational program in a field such as, but not limited to,
19 social work, professional counseling, marriage and family therapy,
20 human development, psychology, or family relations, the content of
21 which contains an emphasis on therapeutic mental health and course
22 work in psychotherapy and the assessment of mental disorders.

23 Sec. 736. Section 71-1,310, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-1,310~~ Professional counseling shall mean means the

1 assessment and treatment of mental and emotional disorders within
2 the context of professional counseling theory and practice of
3 individuals, couples, families, or groups and ~~shall include,~~
4 includes, but is not be limited to:

5 (1) Assisting individuals or groups through the
6 counseling relationship to develop understanding, define goals,
7 plan action, and change behavior with the goal of reflecting
8 interests, abilities, aptitudes, and needs as they are related
9 to personal and social concerns, educational progress, and
10 occupations;

11 (2) Appraisal activities which shall mean selecting,
12 administering, scoring, and interpreting instruments designed to
13 assess a person's aptitudes, attitudes, abilities, achievements,
14 interests, and personal characteristics, except that nothing in
15 this subdivision shall be construed to authorize a certified
16 professional counselor to engage in the practice of clinical
17 psychology as defined in section ~~71-1,206.14;~~ 1045 of this act;

18 (3) Referral activities which evaluate data to identify
19 which persons or groups may better be served by other specialists;

20 (4) Research activities which shall mean reporting,
21 designing, conducting, or consulting on research in counseling
22 with human subjects;

23 (5) Therapeutic, vocational, or personal rehabilitation
24 in relationship to adapting to physical, emotional, or intellectual
25 disability; and

1 (6) Consulting on any activity listed in this section.

2 Sec. 737. Section 71-1,311, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~71-1,311~~ (1) Social work practice or the practice of
5 social work ~~shall mean~~ means the professional activity of helping
6 individuals, groups, and families or larger systems such as
7 organizations and communities to improve, restore, or enhance their
8 capacities for personal and social functioning and the professional
9 application of social work values, knowledge, principles, and
10 methods in the following areas of practice:

11 (a) Information, resource identification and development,
12 and referral services;

13 (b) Preparation and evaluation of psychosocial
14 assessments and development of social work service plans;

15 (c) Case management, coordination, and monitoring of
16 social work service plans in the areas of personal, social, or
17 economic resources, conditions, or problems;

18 (d) Development, implementation, and evaluation of social
19 work programs and policies;

20 (e) Supportive contacts to assist individuals and groups
21 with personal adjustment to crisis, transition, economic change, or
22 a personal or family member's health condition, especially in the
23 area of services given in hospitals, health clinics, home health
24 agencies, schools, shelters for the homeless, shelters for the
25 urgent care of victims of sexual assault, child abuse, elder abuse,

1 or domestic violence, nursing homes, and correctional facilities.
2 Nothing in this subdivision shall be construed to prevent
3 charitable and religious organizations, the clergy, governmental
4 agencies, hospitals, health clinics, home health agencies, schools,
5 shelters for the homeless, shelters for the urgent care of victims
6 of sexual assault, child abuse, elder abuse, or domestic violence,
7 nursing homes, or correctional facilities from providing supportive
8 contacts to assist individuals and groups with adjustment to
9 crisis, transition, economic change, or personal or a family
10 member's health condition if such persons or organizations do not
11 represent themselves to be social workers;

12 (f) Social casework for and prevention of psychosocial
13 dysfunction, disability, or impairment; and

14 (g) Social work research, consultation, and education.

15 (2) Social work practice ~~shall~~ does not include the
16 following:

17 (a) The measuring and testing of personality or
18 intelligence;

19 (b) Accepting fees or compensation for the treatment of
20 disease, injury, or deformity of persons by drugs, surgery, or any
21 manual or mechanical treatment whatsoever;

22 (c) Prescribing drugs or electroconvulsive therapy; and

23 (d) Treating organic diseases or major psychiatric
24 diseases.

25 (3) A certified master social worker who practices within

1 the confines of this section shall not be required to be licensed
2 as a mental health practitioner.

3 Sec. 738. The board shall consist of eight professional
4 members and two public members appointed pursuant to section
5 58 of this act. The members shall meet the requirements of
6 sections 64 and 65 of this act. Two professional members shall be
7 certified master social workers, two professional members shall be
8 certified professional counselors, two professional members shall
9 be certified marriage and family therapists, and two professional
10 members shall be licensed mental health practitioners that do not
11 hold an associated certification.

12 Sec. 739. Section 71-1,312, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~71-1,312~~ ~~No person shall engage in mental health practice~~
15 ~~or hold himself or herself out~~ The requirement to be licensed as
16 a mental health practitioner unless he or she is licensed for
17 such purpose pursuant to the Uniform Licensing Law, except that
18 this section Credentialing Act in order to engage in mental health
19 practice shall not be construed to prevent:

20 (1) Qualified members of other professions who are
21 licensed, certified, or registered by this state from practice
22 of any mental health activity consistent with the scope of practice
23 of their respective professions;

24 (2) Alcohol and drug counselors who are licensed by the
25 Department of Health and Human Services Regulation and Licensure

1 and problem gambling counselors who are certified by the Department
2 of Health and Human Services from practicing their profession. Such
3 exclusion shall include students training and working under the
4 supervision of an individual qualified under section ~~71-1,356~~, 166
5 of this act;

6 (3) Any person employed by an agency, bureau, or division
7 of the federal government from discharging his or her official
8 duties, except that if such person engages in mental health
9 practice in this state outside the scope of such official duty
10 or represents himself or herself as a licensed mental health
11 practitioner, he or she shall be licensed;

12 (4) Teaching or the conduct of research related to mental
13 health services or consultation with organizations or institutions
14 if such teaching, research, or consultation does not involve the
15 delivery or supervision of mental health services to individuals
16 or groups of individuals who are themselves, rather than a third
17 party, the intended beneficiaries of such services;

18 (5) The delivery of mental health services by:

19 (a) Students, interns, or residents whose activities
20 constitute a part of the course of study for medicine, psychology,
21 nursing, school psychology, social work, clinical social work,
22 counseling, marriage and family therapy, or other health care or
23 mental health service professions; or

24 (b) Individuals seeking to fulfill postgraduate
25 requirements for licensure when those individuals are supervised by

1 a licensed professional consistent with the applicable regulations
2 of the appropriate professional board;

3 (6) Duly recognized members of the clergy from providing
4 mental health services in the course of their ministerial duties
5 and consistent with the codes of ethics of their profession if they
6 do not represent themselves to be mental health practitioners;

7 (7) The incidental exchange of advice or support by
8 persons who do not represent themselves as engaging in mental
9 health practice, including participation in self-help groups when
10 the leaders of such groups receive no compensation for their
11 participation and do not represent themselves as mental health
12 practitioners or their services as mental health practice;

13 (8) Any person providing emergency crisis intervention
14 or referral services or limited services supporting a service plan
15 developed by and delivered under the supervision of a licensed
16 mental health practitioner, licensed physician, or a psychologist
17 licensed to engage in the practice of psychology if such persons
18 are not represented as being licensed mental health practitioners
19 or their services are not represented as mental health practice; or

20 (9) Staff employed in a program designated by an agency
21 of state government to provide rehabilitation and support services
22 to individuals with mental illness from completing a rehabilitation
23 assessment or preparing, implementing, and evaluating an individual
24 rehabilitation plan.

25 Sec. 740. Section 71-1,314, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1,314 (1) On and after September 1, 1994, no person~~
3 ~~shall hold himself or herself out as a mental health practitioner~~
4 ~~unless he or she is licensed as such by the department.~~ A person
5 shall be qualified to be a licensed mental health practitioner if
6 he or she:

7 ~~(a)~~ (1) Has received a master's or doctorate degree
8 that consists of course work and training which was primarily
9 therapeutic mental health in content and included a practicum or
10 internship and was from an approved educational program. Practicums
11 or internships completed after September 1, 1995, must include a
12 minimum of three hundred clock hours of direct client contact under
13 the supervision of a qualified physician, a licensed psychologist,
14 or a licensed mental health practitioner;

15 ~~(b)~~ (2) Has successfully completed three thousand hours
16 of supervised experience in mental health practice of which fifteen
17 hundred hours were in direct client contact in a setting where
18 mental health services were being offered and the remaining
19 fifteen hundred hours included, but were not limited to, review
20 of client records, case conferences, direct observation, and video
21 observation. For purposes of this subdivision, supervised ~~shall~~
22 ~~mean~~ means monitored by a qualified physician, a licensed clinical
23 psychologist, or a certified master social worker, certified
24 professional counselor, or marriage and family therapist qualified
25 for certification on September 1, 1994, for any hours completed

1 before such date or by a qualified physician, a psychologist
2 licensed to engage in the practice of psychology, or a licensed
3 mental health practitioner for any hours completed after such date,
4 including evaluative face-to-face contact for a minimum of one hour
5 per week. Such three thousand hours shall be accumulated after
6 completion of the master's or doctorate degree and during the five
7 years immediately preceding the application for licensure; and

8 ~~(e) (3)~~ Has satisfactorily passed an examination approved
9 by the board. An individual who by reason of educational background
10 is eligible for certification as a certified master social worker,
11 a certified professional counselor, or a certified marriage and
12 family therapist shall take and pass a certification examination
13 approved by the board before becoming licensed as a mental health
14 practitioner.

15 ~~(2) For a period of one year following September 1, 1994:~~

16 ~~(a) An individual who is certified on September 1, 1994,~~
17 ~~as a certified master social worker or certified professional~~
18 ~~counselor can be licensed as a mental health practitioner by making~~
19 ~~application to the department and paying the licensure fee;~~

20 ~~(b) An individual who has a mental health-related~~
21 ~~master's degree, as determined by the board, and five years~~
22 ~~experience providing mental health services may, upon successful~~
23 ~~completion of the examination for licensure as a mental health~~
24 ~~practitioner, be licensed as a mental health practitioner; and~~

25 ~~(c) An individual who obtains certification as a marriage~~

1 and family therapist by September 1, 1995, can be licensed as a
2 mental health practitioner by making application to the department
3 and paying the licensure fee.

4 ~~(3) An individual who, within one year after June 17,~~
5 ~~1997, demonstrates to the board that he or she was certified as~~
6 ~~a master social worker or professional counselor shall be licensed~~
7 ~~as a mental health practitioner by making application to the~~
8 ~~department and paying the licensure fee.~~

9 ~~(4) The application for a mental health practitioner~~
10 ~~license shall include the applicant's social security number.~~

11 Sec. 741. Section 71-1,314.01, Reissue Revised Statutes
12 of Nebraska, is amended to read:

13 ~~71-1,314.01~~ (1) A person who needs to obtain the required
14 three thousand hours of supervised experience in mental health
15 practice as specified in section ~~71-1,314~~ 740 of this act to
16 qualify for a mental health practitioner license shall obtain a
17 provisional mental health practitioner license. To qualify for a
18 provisional mental health practitioner license, such person shall:

19 (a) Have a master's or doctorate degree that consists
20 of course work and training which was primarily therapeutic mental
21 health in content and included a practicum or internship and was
22 from an approved educational program as specified in such section;

23 ~~(b)(i) Apply within sixty days after September 13, 1997,~~
24 ~~if the three thousand hours of supervised experience were being~~
25 ~~earned on September 13, 1997, or~~

1 ~~(ii)~~ (b) Apply at any time following September 13,
2 1997, but prior to earning the three thousand hours of supervised
3 experience; if such experience was not being earned on September
4 13, 1997, and

5 (c) Pay the provisional mental health practitioner
6 license fee.

7 (2) A provisional mental health practitioner license
8 shall expire upon receipt of licensure as a mental health
9 practitioner or five years after the date of issuance, whichever
10 comes first.

11 (3) A person who holds a provisional mental health
12 practitioner license shall inform all clients that he or she
13 holds a provisional license and is practicing mental health under
14 supervision and shall identify the supervisor. Failure to make such
15 disclosure is a ground for discipline as set forth in section
16 71-147. 756 of this act.

17 Sec. 742. The department, with the recommendation
18 of the board, may issue a license based on licensure in
19 another jurisdiction to an individual who meets the licensure
20 requirements of the Mental Health Practice Act or substantially
21 equivalent requirements as determined by the department, with the
22 recommendation of the board.

23 Sec. 743. Section 71-1,317, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-1,317~~ The Legislature finds that certified social

1 workers and certified master social workers provide a wide range of
2 psychosocial assessment, intervention, and support services that do
3 not constitute the clinical treatment services of licensed mental
4 health practitioners, psychologists, or physicians. The Legislature
5 therefor finds that it is appropriate to provide for certification
6 of social workers and master social workers.

7 Sec. 744. Section 71-1,318, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-1,318 After September 1, 1994, no person may represent~~
10 ~~himself or herself~~ The requirement to be certified as a social
11 worker unless he or she is certified to practice social work
12 pursuant to the Uniform Licensing Law, ~~except that nothing in this~~
13 ~~section~~ Credentialing Act in order to represent himself or herself
14 as a social worker shall not be construed to prevent:

15 (1) Qualified members of other professions, including,
16 but not limited to, licensed physicians, registered or licensed
17 practical nurses, attorneys, marriage and family therapists,
18 psychologists, psychotherapists, vocational guidance counselors,
19 school psychologists, members of the clergy, court employees, or
20 other persons licensed ~~or certified under Chapter 71, article~~
21 ~~1, credentialed under the Uniform Credentialing Act~~ from doing
22 work consistent with the scope of practice of their respective
23 professions, except that such qualified members shall not hold
24 themselves out to the public by title as being engaged in the
25 practice of social work; or

1 (2) The activities and services of a student or intern
2 in social work practice who is pursuing a course of study in
3 an approved educational program if the activities and services
4 constitute a part of his or her supervised course of study
5 or experience for certification and are performed under the
6 supervision of a certified master social worker and the person
7 is identified by an appropriate title as a social work student or
8 intern. For purposes of this subdivision, supervision ~~shall mean~~
9 means that written records of services or procedures are examined
10 and evaluative interviews are conducted relative thereto by a
11 certified master social worker.

12 Sec. 745. Section 71-1,319, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~71-1,319~~ (1) A person shall be qualified to be a
15 certified master social worker if he or she:

16 (a) Has a doctorate or a master's degree in social work
17 from an approved educational program;

18 (b) Has had a minimum of at least three thousand hours
19 of experience, in addition to the master's or doctorate degree, in
20 social work under the supervision as defined in section ~~71-1,318~~
21 744 of this act of a certified master social worker;

22 (c) Provides evidence to the ~~board~~ department that he or
23 she meets the requirements of subdivisions (1)(a) and (1)(b) of
24 this section; and

25 (d) Completes an application ~~which includes his or her~~

1 ~~social security number~~ and satisfactorily passes an examination
2 approved by the board.

3 ~~The department, upon the recommendation of the board, may~~
4 ~~adopt and promulgate rules and regulations defining the experience~~
5 ~~required under subdivision (1)(b) of this section.~~

6 (2) A person shall be qualified to be a certified social
7 worker if he or she provides evidence to the board that he or
8 she has a baccalaureate or master's degree in social work from
9 an approved educational program and completes an application form,
10 which includes the applicant's social security number.

11 Sec. 746. Section 71-1,319.01, Reissue Revised Statutes
12 of Nebraska, is amended to read:

13 ~~71-1,319.01~~ (1) A person who needs to obtain the required
14 three thousand hours of supervised experience in social work
15 as specified in section ~~71-1,319~~ 745 of this act to qualify
16 for certification as a master social worker shall obtain a
17 provisional certification as a master social worker. To qualify
18 for a provisional certification as a master social worker, such
19 person shall:

20 (a) Have a doctorate or master's degree in social work
21 from an approved educational program; and

22 ~~(b)(i) Apply within sixty days after September 13, 1997,~~
23 ~~if the three thousand hours of supervised experience were being~~
24 ~~earned on September 13, 1997, or~~

25 ~~(ii) (b) Apply at any time after September 13, 1997, but~~

1 prior to earning the three thousand hours of supervised experience,
2 ~~if such experience was not being earned on September 13, 1997,~~
3 and

4 ~~(c) Pay the required fee.~~

5 (2) A provisional master social worker certification
6 shall expire upon receipt of certification as a master social
7 worker or five years after the date of issuance, whichever comes
8 first.

9 (3) A person who holds a provisional certification as a
10 master social worker shall inform all clients that he or she holds
11 a provisional certification and is practicing social work under
12 supervision and shall identify the supervisor. Failure to make such
13 disclosure is a ground for discipline as set forth in section
14 ~~71-147. 756 of this act.~~

15 Sec. 747. The department, with the recommendation of
16 the board, may issue a certificate based on licensure in another
17 jurisdiction to represent oneself as a certified marriage and
18 family therapist, a certified professional counselor, or a social
19 worker to an individual who meets the requirements of the
20 Mental Health Practice Act relating to marriage and family
21 therapy, professional counseling, or social work, as appropriate,
22 or substantially equivalent requirements as determined by the
23 department, with the recommendation of the board.

24 Sec. 748. Section 71-1,323, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-1,323~~ Nothing in ~~sections 71-1,317 to 71-1,322~~ the
2 Mental Health Practice Act shall be construed to require the State
3 of Nebraska, any agency of the State of Nebraska, or any of the
4 entities which operate under rules and regulations of a state
5 agency, which either employ or contract for the services of social
6 services workers, to employ or contract with only persons certified
7 pursuant to ~~such sections~~ the act for the performance of any of the
8 professional activities enumerated in section ~~71-1,311.~~ 737 of this
9 act.

10 Sec. 749. Section 71-1,325, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~71-1,325~~ A person shall be qualified to be a certified
13 professional counselor if he or she:

14 (1) Has received a master's degree from an approved
15 educational program;

16 (2) Has had three thousand hours of experience in
17 professional counseling approved by the board after receipt of
18 the master's degree; and

19 (3) Completes an application ~~which includes his or her~~
20 ~~social security number~~ and satisfactorily passes an examination
21 approved by the board.

22 ~~The department, upon the recommendation of the board,~~
23 ~~may adopt and promulgate rules and regulations prescribing the~~
24 ~~experience required under subdivision (2) of this section.~~

25 Sec. 750. Section 71-1,329, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1,329 (1)~~ A person who applies to the department for
3 certification as a marriage and family therapist within one year
4 or less after September 1, 1994, shall be qualified for such
5 certification if he or she:

6 (a) Meets the requirements of subsection (2) of this
7 section; or

8 (b)(i)(A) Provides evidence to the board that he or she
9 has a master's or doctoral degree in marriage and family therapy
10 from an educational program approved by the board or from any
11 program in marriage and family therapy in which the person was
12 enrolled between January 1, 1975, and August 31, 1991; or

13 (B) Provides evidence to the board that he or she has a
14 master's or doctoral degree in a field determined by the board to
15 be related to marriage and family therapy, such as social work,
16 psychology, sociology, human services, human development, family
17 relations, or counseling, and has been actively engaged in the
18 practice of marriage and family therapy for at least three thousand
19 hours; and

20 (ii) Provides evidence to the board that he or she
21 has been actually engaged in the practice of marriage and family
22 therapy for at least twenty hours per week for at least three of
23 the seven years prior to making such application.

24 (2) (1) A person who applies to the department for
25 certification as a marriage and family therapist more than one year

1 ~~after September 1, 1994,~~ shall be qualified for such certification
2 if he or she:

3 (a) Provides evidence to the ~~board~~ department that he
4 or she has a master's or doctoral degree in marriage and family
5 therapy from a program approved by the board or a graduate degree
6 in a field determined by the board to be related to marriage and
7 family therapy and graduate-level course work determined by the
8 board to be equivalent to a master's degree in marriage and family
9 therapy;

10 (b) Provides evidence to the ~~board~~ department that he
11 or she has had at least three thousand hours of experience in
12 marriage and family therapy under a qualified supervisor as defined
13 ~~in subsection (4) of this section~~ following receipt of the graduate
14 degree; and

15 (c) Completes an application which includes his or her
16 social security number and passes an examination approved by the
17 board.

18 ~~(3) Upon payment of the required fee and the provision~~
19 ~~of evidence to the board of his or her professional education,~~
20 ~~training, experience, and qualifications to practice marriage~~
21 ~~and family therapy, a certificate to practice as a certified~~
22 ~~marriage and family therapist shall be issued to any applicant~~
23 ~~who applies to the department for a certificate and satisfies~~
24 ~~the educational requirements of subsection (1) or (2) of this~~
25 ~~section. An applicant shall submit all materials as the board or~~

1 department may require to determine his or her qualifications
2 for a certificate to practice as a certified marriage and
3 family therapist and to determine his or her compliance with
4 the requirements of this section. Failure to comply with these
5 provisions shall be sufficient grounds to reject an application
6 for a certificate to practice as a certified marriage and family
7 therapist under this section.

8 ~~(4)~~ (2) For purposes of this section:

9 (a) Actively engaged in the practice of marriage and
10 family therapy may include (i) services and activities provided
11 under the direct supervision of a person with at least a master's
12 degree in marriage and family therapy from a program approved by
13 the board or (ii) services and activities that are classified by
14 title or by description of duties and responsibilities as marriage
15 and family therapy practice;

16 (b) Qualified supervisor ~~shall mean~~ means a licensed
17 mental health practitioner, a psychologist licensed to engage in
18 the practice of psychology, or a licensed physician who meets
19 supervisory standards established by rules and regulations of the
20 board and the department; and

21 (c) Supervision ~~shall mean~~ means face-to-face contact
22 between an applicant and a qualified supervisor during which the
23 applicant apprises the supervisor of the diagnosis and treatment
24 of each client, the clients' cases are discussed, the supervisor
25 provides the applicant with oversight and guidance in treating and

1 dealing with clients, and the supervisor evaluates the applicant's
2 performance. In order for a supervised period of time to be
3 credited toward the time of supervision required by ~~subdivision~~
4 ~~(2)(b)~~ subsection (1) of this section, it shall consist of the
5 following:

6 (i) A minimum of a ratio of two hours of supervision per
7 fifteen hours of the applicant's contact with clients;

8 (ii) Focus on raw data from the applicant's clinical work
9 which is made directly available to the supervisor through such
10 means as written clinical materials, direct observation, and video
11 and audio recordings;

12 (iii) A process which is distinguishable from personal
13 psychotherapy or didactic instruction; and

14 (iv) A proportion of individual and group supervision as
15 determined by the rules and regulations of the board.

16 Sec. 751. Section 71-1,332, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-1,332~~ Nothing in ~~sections 71-1,329 to 71-1,332~~ the
19 Mental Health Practice Act shall be construed to require the State
20 of Nebraska, any agency of the State of Nebraska, or any of the
21 entities which operate under rules and regulations of a state
22 agency, which employ or contract for the services of marriage
23 and family therapists, to employ or contract with only persons
24 certified pursuant to ~~this section~~ the act for the performance of
25 any of the professional activities enumerated in section ~~71-1,311.~~

1 737 of this act.

2 Sec. 752. The department shall establish and collect fees
3 for credentialing under the Mental Health Practice Act as provided
4 in sections 51 to 57 of this act.

5 Sec. 753. Section 71-1,335, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-1,335~~ No person licensed or certified pursuant to
8 ~~sections 71-1,295 to 71-1,338~~ the Mental Health Practice Act shall
9 disclose any information he or she may have acquired from any
10 person consulting him or her in his or her professional capacity
11 except:

12 (1) With the written consent of the person or, in
13 the case of death or disability, of the person's personal
14 representative, any other person authorized to sue on behalf
15 of the person, or the beneficiary of an insurance policy on the
16 person's life, health, or physical condition. When more than one
17 person in a family receives therapy conjointly, each such family
18 member who is legally competent to execute a waiver shall agree to
19 the waiver referred to in this subdivision. Without such a waiver
20 from each family member legally competent to execute a waiver,
21 a practitioner shall not disclose information received from any
22 family member who received therapy conjointly;

23 (2) As such privilege is limited by the laws of the State
24 of Nebraska or as the ~~Board of Mental Health Practice~~ board may
25 determine by rule and regulation;

1 (3) When the person waives the privilege by bringing
2 charges against the licensee; or

3 (4) When there is a duty to warn under the limited
4 circumstances set forth in section ~~71-1,336-~~ 754 of this act.

5 Sec. 754. Section 71-1,336, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-1,336~~ (1) There shall be no monetary liability on the
8 part of, and no cause of action shall arise against, any person who
9 is licensed or certified pursuant to ~~sections 71-1,295 to 71-1,338~~
10 the Mental Health Practice Act for failing to warn of and protect
11 from a patient's threatened violent behavior or failing to predict
12 and warn of and protect from a patient's violent behavior except
13 when the patient has communicated to the mental health practitioner
14 a serious threat of physical violence against himself, herself, or
15 a reasonably identifiable victim or victims.

16 (2) The duty to warn of or to take reasonable precautions
17 to provide protection from violent behavior shall arise only
18 under the limited circumstances specified in subsection (1) of
19 this section. The duty shall be discharged by the mental health
20 practitioner if reasonable efforts are made to communicate the
21 threat to the victim or victims and to a law enforcement agency.

22 (3) No monetary liability and no cause of action shall
23 arise under section ~~71-1,335~~ 753 of this act against a licensee
24 or certificate holder for information disclosed to third parties
25 in an effort to discharge a duty arising under subsection (1) of

1 this section according to the provisions of subsection (2) of this
2 section.

3 Sec. 755. Section 71-1,337, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-1,337~~ The ~~Board of Mental Health Practice~~ board shall
6 adopt a code of ethics which is essentially in agreement with
7 the current code of ethics of the national and state associations
8 of the specialty professions included in mental health practice
9 and which the board deems necessary to assure adequate protection
10 of the public in the provision of mental health services to the
11 public. A violation of the code of ethics shall be considered an
12 act of unprofessional conduct.

13 The board shall ensure through the code of ethics and
14 the rules and regulations adopted and promulgated under ~~sections~~
15 ~~71-1,295 to 71-1,338~~ the Mental Health Practice Act that persons
16 licensed or certified pursuant to ~~sections 71-1,295 to 71-1,338~~
17 the act limit their practice to demonstrated areas of competence
18 as documented by relevant professional education, training, and
19 experience.

20 Intentional failure by a mental health practitioner to
21 report known acts of unprofessional conduct by a mental health
22 practitioner to the department or the board shall be considered an
23 act of unprofessional conduct and shall be grounds for disciplinary
24 action under appropriate sections of the Uniform ~~Licensing Law~~
25 Credentialing Act unless the mental health practitioner has

1 acquired such knowledge in a professional relationship otherwise
2 protected by confidentiality.

3 Sec. 756. In addition to the grounds for disciplinary
4 action found in sections 78 and 79 of this act, a credential
5 subject to the Mental Health Practice Act may be denied, refused
6 renewal, limited, revoked, or suspended or have other disciplinary
7 measures taken against it in accordance with section 96 of this act
8 when the applicant or licensee fails to disclose the information
9 required by section 741 or 746 of this act.

10 Sec. 757. Section 71-1,132.01, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 71-1,132.01 Sections 71-1,132.01 to 71-1,132.53 757 to
13 792 of this act shall be known and may be cited as the Nurse
14 Practice Act.

15 Sec. 758. For purposes of the Nurse Practice Act and
16 elsewhere in the Uniform Credentialing Act, unless the context
17 otherwise requires, the definitions found in sections 759 to 768 of
18 this act apply.

19 Sec. 759. Assigning means appointing or designating
20 another individual the responsibility for the performance of
21 nursing interventions.

22 Sec. 760. Board means the Board of Nursing.

23 Sec. 761. Delegating means transferring to another
24 individual the authority, responsibility, and accountability to
25 perform nursing interventions.

1 Sec. 762. Directing means managing, guiding, and
2 supervising the nursing interventions performed by another
3 individual.

4 Sec. 763. Executive director means the executive director
5 of the board.

6 Sec. 764. License, for purposes of discipline, includes
7 the multistate licensure privilege to practice granted by the
8 Nurse Licensure Compact. If the multistate licensure privilege
9 is restricted due to disciplinary action by the home state, the
10 department may, upon request by the individual, grant the authority
11 to practice in this state.

12 Sec. 765. Licensed practitioner means a person lawfully
13 authorized to prescribe medications or treatments.

14 Sec. 766. Practice of nursing means the performance
15 for compensation or gratuitously of any act expressing judgment
16 or skill based upon a systematized body of nursing knowledge.
17 Such acts include the identification of and intervention in
18 actual or potential health problems of individuals, families,
19 or groups, which acts are directed toward maintaining health
20 status, preventing illness, injury, or infirmity, improving health
21 status, and providing care supportive to or restorative of life and
22 well-being through nursing assessment and through the execution of
23 nursing care and of diagnostic or therapeutic regimens prescribed
24 by any person lawfully authorized to prescribe. Each nurse is
25 directly accountable and responsible to the consumer for the

1 quality of nursing care rendered. Licensed nurses may use the
2 services of unlicensed individuals to provide assistance with
3 personal care and activities of daily living.

4 Sec. 767. (1) Practice of nursing by a licensed practical
5 nurse means the assumption of responsibilities and accountability
6 for nursing practice in accordance with knowledge and skills
7 acquired through an approved program of practical nursing. A
8 licensed practical nurse may function at the direction of a
9 licensed practitioner or a registered nurse.

10 (2) Such responsibilities and performances of acts
11 must utilize procedures leading to predictable outcomes and must
12 include, but not be limited to:

13 (a) Contributing to the assessment of the health status
14 of individuals and groups;

15 (b) Participating in the development and modification of
16 a plan of care;

17 (c) Implementing the appropriate aspects of the plan of
18 care;

19 (d) Maintaining safe and effective nursing care rendered
20 directly or indirectly;

21 (e) Participating in the evaluation of response to
22 interventions; and

23 (f) Assigning and directing nursing interventions that
24 may be performed by others and that do not conflict with the Nurse
25 Practice Act.

- 1 Sec. 768. (1) The practice of nursing by a registered
2 nurse means assuming responsibility and accountability for nursing
3 actions.
- 4 (2) Nursing actions include, but are not limited to:
- 5 (a) Assessing human responses to actual or potential
6 health conditions;
- 7 (b) Establishing nursing diagnoses;
- 8 (c) Establishing goals and outcomes to meet identified
9 health care needs;
- 10 (d) Establishing and maintaining a plan of care;
- 11 (e) Prescribing nursing interventions to implement the
12 plan of care;
- 13 (f) Implementing the plan of care;
- 14 (g) Teaching health care practices;
- 15 (h) Delegating, directing, or assigning nursing
16 interventions that may be performed by others and that do not
17 conflict with the Nurse Practice Act;
- 18 (i) Maintaining safe and effective nursing care rendered
19 directly or indirectly;
- 20 (j) Evaluating responses to interventions, including, but
21 not limited to, performing physical and psychological assessments
22 of patients under restraint and seclusion as required by federal
23 law, if the registered nurse has been trained in the use of
24 emergency safety intervention;
- 25 (k) Teaching theory and practice of nursing;

1 (l) Conducting, evaluating, and utilizing nursing
2 research;

3 (m) Administering, managing, and supervising the practice
4 of nursing; and

5 (n) Collaborating with other health professionals in the
6 management of health care.

7 Sec. 769. Section 71-1,132.07, Revised Statutes
8 Cumulative Supplement, 2006, is amended to read:

9 ~~71-1,132.07~~ (1) ~~The Board of Nursing is established.~~ The
10 board shall consist of eight registered nurse members, two licensed
11 practical nurse members, and two ~~consumer~~ public members. ~~all~~
12 ~~of whom shall be appointed by the State Board of Health.~~ The
13 registered nurses on the Board of Nursing board shall be from
14 the following areas: (a) One practical nurse educator; (b) one
15 associate degree or diploma nurse educator; (c) one baccalaureate
16 nurse educator; (d) two nursing service administrators; (e) two
17 staff nurses; and (f) one advanced practice registered nurse. ~~The~~
18 ~~nursing service administrators, the staff nurses, and the licensed~~
19 ~~practical nurses shall be equally~~

20 (2) The State Board of Health shall attempt to ensure
21 that the membership of the Board of Nursing is representative
22 of acute care, long-term care, and community-based care. All
23 congressional districts shall be equally represented on the board,
24 A minimum of three and a maximum of five members shall be appointed
25 from each congressional district, and each member shall have been a

1 bona fide resident of the congressional district from which he or
2 she is appointed for a period of at least one year prior to the
3 time of the appointment of such member.

4 ~~(2) The terms of office of all board members shall be~~
5 ~~staggered terms of four years each as the State Board of Health~~
6 ~~determines.~~

7 ~~(3) At the expiration of the term of any member,~~
8 ~~the State Board of Health may consult with appropriate nursing~~
9 ~~organizations regarding candidates for appointment. Appointments~~
10 ~~shall be made on or before December 1 of each year. In order to be~~
11 ~~considered for reappointment, a candidate must currently meet all~~
12 ~~criteria for initial appointment. Vacancies occurring on the Board~~
13 ~~of Nursing shall be filled for the unexpired terms by appointments~~
14 ~~made by the State Board of Health. No member shall serve more than~~
15 ~~two consecutive terms on the Board of Nursing. Any board member~~
16 ~~initially appointed for less than a full term shall be eligible to~~
17 ~~serve for two additional consecutive full terms.~~

18 ~~(4) The State Board of Health shall have power to remove~~
19 ~~from office at any time any member of the Board of Nursing, after~~
20 ~~a public hearing pursuant to the Administrative Procedure Act, for~~
21 ~~physical or mental incapacity to carry out the duties of a board~~
22 ~~member, for continued neglect of duty, for incompetency, for acting~~
23 ~~beyond the individual member's scope of authority, for malfeasance~~
24 ~~in office, for any cause for which a license or certificate in the~~
25 ~~member's profession involved may be suspended or revoked, for a~~

1 lack of licensure or certification in the member's profession, or
2 for other sufficient cause.

3 ~~(5) All members of the board are immune from individual~~
4 ~~civil liability while acting within the scope of their duties as~~
5 ~~board members.~~

6 ~~(6) If the entire board, an individual member, or a staff~~
7 ~~member is sued, the Attorney General shall appoint an attorney to~~
8 ~~represent the involved parties.~~

9 ~~(7) The department shall adopt and promulgate rules and~~
10 ~~regulations which establish definitions of conflicts of interest~~
11 ~~for members of the board and which establish procedures in the case~~
12 ~~such a conflict arises.~~

13 Sec. 770. Section 71-1,132.08, Revised Statutes
14 Cumulative Supplement, 2006, is amended to read:

15 ~~71-1,132.08~~ (1) Each licensed practical nurse educator on
16 the board shall (a) be a registered nurse currently licensed in
17 the state, (b) have graduated with a baccalaureate graduate degree
18 in nursing or a related field of study, (c) have had a minimum
19 of ~~three~~ five years' experience in administration, teaching, or
20 consultation in practical nurse education, and (d) be currently
21 employed as a practical nurse educator.

22 (2) Each associate degree or diploma nurse educator on
23 the board and the baccalaureate nurse educator on the board shall
24 (a) be a registered nurse currently licensed in the state, (b) have
25 graduated with a ~~master's~~ graduate degree in nursing, (c) have had

1 a minimum of five years' experience in administration, teaching, or
2 consultation in nursing education, and (d) be currently employed in
3 the field being represented.

4 (3) Each staff nurse on the board shall (a) be a
5 registered nurse currently licensed in the state, (b) have had a
6 minimum of five years' experience in nursing, and (c) be currently
7 employed as a staff nurse in the provision of patient care
8 services.

9 (4) Each nursing service administrator on the board shall
10 (a) be a registered nurse currently licensed in the state, (b)
11 have had a minimum of five years' experience in nursing service
12 administration, and (c) be currently employed in such field.

13 (5) Each licensed practical nurse member shall (a) have
14 completed at least four years of high school study, (b) be licensed
15 as a licensed practical nurse in this state, (c) have obtained
16 a certificate or diploma from a state-approved practical nursing
17 program, (d) have been actively engaged in practical nursing for at
18 least five years, and (e) be currently employed in the provision of
19 patient care services as a licensed practical nurse in the state.

20 (6) Each ~~consumer~~ public member shall ~~(a) not have been~~
21 ~~involved in providing health care services in this state for at~~
22 ~~least three years prior to his or her appointment,~~ (b) be of voting
23 age, and ~~(c) be a resident of the state.~~ meet the requirements of
24 section 65 of this act.

25 (7) The advanced practice registered nurse on the board

1 shall (a) have a minimum of five years' experience as an advanced
2 practice registered nurse, (b) be currently employed as an advanced
3 practice registered nurse, and (c) be licensed as an advanced
4 practice registered nurse.

5 (8) Members serving on the operative date of this section
6 may complete their respective terms even if they do not meet
7 the requirements for appointment as changed by this legislative
8 bill. ~~For purposes of this section, current employment means~~
9 ~~having practiced no less than two thousand hours in the two years~~
10 ~~preceding appointment.~~

11 Sec. 771. Section 71-1,132.31, Reissue Revised Statutes
12 of Nebraska, is amended to read:

13 ~~71-1,132.31~~ (1) The board department shall appoint an
14 executive director who is a registered nurse currently licensed in
15 this state and who has a graduate degree in nursing. The executive
16 director shall have a minimum of five years' experience within
17 the last ten years in the areas of administration, teaching, or
18 consultation in the field of nursing. The salary of the executive
19 director shall be fixed by the department and be competitive with
20 salaries for similar positions of responsibility which require
21 similar education and experience. The executive director shall
22 not be a member of the board. The executive director shall be
23 administrator of the Nurse Licensure Compact. As administrator, the
24 executive director shall give notice of withdrawal to the executive
25 heads of all other party states within thirty days after the

1 effective date of any statute repealing the compact enacted by the
2 Legislature pursuant to Article X of the compact. The executive
3 director serving on the operative date of this section may continue
4 serving until replaced by the department pursuant to this section.

5 (2) The department shall appoint a practice consultant
6 and an education consultant, each of whom is a registered nurse
7 currently licensed in this state and has a minimum of five
8 years' experience. On and after January 1, 1995, any person newly
9 appointed to these positions shall also have a graduate degree in
10 nursing. The salaries for these positions shall be fixed by the
11 department and be competitive with salaries for similar positions
12 of responsibility which require similar education. The nursing
13 education consultant and nursing practice consultant shall not be
14 members of the board.

15 (3) The department shall appoint one or more nurse
16 investigators to conduct investigations of violations of the Nurse
17 Practice Act. Each nurse investigator shall be a registered nurse
18 currently licensed in this state and have a minimum of five years'
19 experience in nursing practice. The nurse investigators shall not
20 be members of the board.

21 Sec. 772. Section 71-1,132.11, Revised Statutes
22 Cumulative Supplement, 2006, is amended to read:

23 ~~71-1,132.11 The board may adopt, promulgate, and revise,~~
24 ~~with the approval of the department, such rules and regulations~~
25 ~~consistent with the Nurse Practice Act as may be necessary to~~

1 ~~carry the act into effect. All such rules and regulations shall be~~
2 ~~published and distributed. The~~ In addition to the duties listed in
3 sections 26 and 61 of this act, the board shall:

4 (1) Adopt reasonable and uniform standards for nursing
5 practice and nursing education;

6 (2) If requested, issue or decline to issue advisory
7 opinions defining acts which in the opinion of the board are or
8 are not permitted in the practice of nursing, ~~as defined in section~~
9 ~~71-1,132-05.~~ Such opinions shall be considered informational only
10 and are nonbinding. Practice-related information provided by the
11 board to registered nurses or licensed practical nurses licensed
12 under the ~~act~~ Nurse Practice Act shall be made available by the
13 board on request to nurses practicing in this state under a license
14 issued by a state that is a party to the Nurse Licensure Compact;

15 (3) Establish rules and regulations for approving and
16 classifying programs preparing nurses, taking into consideration
17 administrative and organizational patterns, the curriculum,
18 students, student services, faculty, and instructional resources
19 and facilities, and provide surveys for each educational program
20 as determined by the board;

21 (4) Approve educational programs which meet the
22 requirements of the ~~act~~; Nurse Practice Act;

23 (5) Keep a record of all its proceedings and compile an
24 annual report for distribution;

25 ~~(6) Establish continuing competency requirements.~~

1 Continuing education is sufficient to meet continuing competency
2 requirements. The requirements may also include, but not be limited
3 to, one or more of the continuing competency activities listed in
4 section 71-161.09 which a licensee may select as an alternative to
5 continuing education;

6 ~~(7)~~ (6) Adopt rules and regulations establishing
7 standards for delegation of nursing activities, including training
8 or experience requirements, competency determination, and nursing
9 supervision;

10 ~~(8)~~ Make recommendations in accordance with section
11 71-168.01 regarding licensure and disciplinary dispositions for
12 individuals who have violated the act and upon the grounds provided
13 in the Uniform Licensing Law;

14 ~~(9)~~ (7) Collect data regarding nursing;

15 ~~(10)~~ (8) Provide consultation and conduct conferences,
16 forums, studies, and research on nursing practice and education;

17 ~~(11)~~ (9) Join organizations that develop and regulate the
18 national nursing licensure examinations and exclusively promote the
19 improvement of the legal standards of the practice of nursing for
20 the protection of the public health, safety, and welfare;

21 ~~(12)~~ Appoint special purpose groups or ad hoc groups
22 to advise the board; (10) Administer the Licensed Practical
23 Nurse-Certified Practice Act; and

24 ~~(13)~~ (11) Administer the Nurse Licensure Compact. In
25 reporting information to the coordinated licensure information

1 system under Article VII of the compact, the department may
2 disclose personal identifying information about a nurse, including
3 his or her social security number.

4 Sec. 773. Section 71-1,132.04, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,132.04~~ In the interest of health and morals and
7 the safeguarding of life, any person practicing or offering to
8 practice nursing in this state for compensation or gratuitously,
9 except as provided in section ~~71-1,132.06~~, 774 of this act, shall
10 submit satisfactory evidence as provided in the Nurse Practice Act
11 that he or she is qualified to so practice and is licensed as
12 provided by the act. Except as provided in section ~~71-1,132.06~~, 774
13 of this act, the practice or attempted practice of nursing, the
14 holding out or attempted holding out of oneself as a registered
15 nurse or a licensed practical nurse, or the use of any title,
16 abbreviation, card, or device to indicate that such a person is
17 practicing nursing is unlawful unless such person has been duly
18 licensed and registered according to the provisions of the act. The
19 practice of nursing by any such unlicensed person or by a nurse
20 whose license has been suspended, revoked, or expired or is on a
21 ~~lapsed or~~ inactive status is declared to be a danger to the public
22 health and welfare.

23 In addition to any other civil, criminal, or disciplinary
24 remedy, the Attorney General, the board, the county attorney of any
25 county in which a person is practicing or purporting to practice

1 nursing without a valid license, or any citizen may, in accordance
2 with the laws of this state governing injunction, maintain an
3 action to enjoin that person from practicing nursing until such
4 person obtains a valid license.

5 An injunction without bond may be obtained by the board
6 for enforcement of the act.

7 Sec. 774. Section 71-1,132.06, Reissue Revised Statutes
8 of Nebraska, is amended to read:

9 ~~71-1,132.06~~ The Nurse Practice Act confers no authority
10 to practice medicine or surgery. The act does not prohibit:

11 (1) Home care provided by parents, foster parents,
12 family, or friends so long as any such person does not represent or
13 hold himself or herself out to be a nurse or use any designation in
14 connection with his or her name which tends to imply that he or she
15 is licensed to practice under the act;

16 (2) Christian Science nursing consistent with the
17 theology of Christian Science provided by a Christian Science nurse
18 who does not hold himself or herself out as a registered nurse or
19 a licensed practical nurse;

20 (3) Auxiliary patient care services provided by persons
21 carrying out duties under the direction of a licensed practitioner;

22 (4) Auxiliary patient care services provided by persons
23 carrying out interventions for the support of nursing service as
24 delegated by a registered nurse or as assigned and directed by a
25 licensed practical nurse licensed under the act;

1 (5) The gratuitous rendering of assistance by anyone in
2 the case of an emergency;

3 (6) Nursing by any legally licensed nurse of any other
4 state whose engagement requires him or her to (a) accompany and
5 care for a patient temporarily residing in this state during the
6 period of one such engagement not to exceed six months in length,
7 (b) transport patients into, out of, or through this state provided
8 each transport does not exceed twenty-four hours, (c) provide
9 patient care during periods of transition following transport, (d)
10 provide educational programs or consultative services within this
11 state for a period not to exceed fourteen consecutive days if
12 neither the education nor the consultation includes the provision
13 or the direction of patient care, and (e) provide nursing care in
14 the case of a disaster. These exceptions do not permit a person to
15 represent or hold himself or herself out as a nurse licensed to
16 practice in this state;

17 (7) Nursing services rendered by a student enrolled in an
18 approved program of nursing when the services are a part of the
19 student's course of study; ~~or~~

20 (8) The practice of nursing by any legally licensed nurse
21 of another state who is ~~employed by the United States Government~~
22 ~~or any bureau, division, or agency of the United States Government~~
23 ~~while in the discharge of his or her official duties or, serves in~~
24 ~~the armed forces of the United States or the United States Public~~
25 ~~Health Service or who is employed by the United States Department~~

1 of Veterans Affairs or other federal agencies, if the practice is
2 limited to that service or employment; or

3 (9) The practice of nursing, if permitted by federal law,
4 as a citizen of a foreign country temporarily residing in Nebraska
5 for a period not to exceed one year for the purpose of postgraduate
6 study, certified to be such by an appropriate agency satisfactory
7 to the board.

8 Sec. 775. Section 71-1,132.30, Reissue Revised Statutes
9 of Nebraska, is amended to read:

10 ~~71-1,132.30~~ (1) The Nurse Practice Act confers no
11 authority to practice medicine or surgery. The act does not
12 prohibit performance of health maintenance activities by a
13 designated care aide for a competent adult at the direction of
14 such adult or at the direction of a caretaker for a minor child
15 or incompetent adult.

16 (2) Health maintenance activities are those activities
17 which enable the minor child or adult to live in his or her home
18 and community. Such activities are those specialized procedures,
19 beyond activities of daily living, which the minor child or adult
20 is unable to perform for himself or herself and which the attending
21 physician or registered nurse determines can be safely performed in
22 the home and community by a designated care aide as directed by a
23 competent adult or caretaker.

24 (3) A competent adult is someone who has the capability
25 and capacity to make an informed decision.

1 (4) For purposes of this section, caretaker means a
2 person who ~~(1)~~ (a) is directly and personally involved in providing
3 care for a minor child or incompetent adult and ~~(2)~~ (b) is the
4 parent, foster parent, family member, friend, or legal guardian of
5 such minor child or incompetent adult.

6 Sec. 776. Section 71-1,132.13, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 ~~71-1,132.13~~ An applicant for a license to practice as
9 a registered nurse shall file with the department a written
10 application for a license and submit satisfactory proof that the
11 applicant is of good moral character, has completed four years of
12 high school study or its equivalent as determined by the board,
13 and has completed the basic professional curriculum in and holds a
14 diploma from an accredited program of registered nursing approved
15 by the board. There is no minimum age requirement for licensure
16 as a registered nurse. Graduates of foreign nursing programs
17 shall pass the Canadian Nurses Association examination or hold a
18 certificate from the Commission on Graduates of Foreign Nursing
19 Schools. Such application shall be made upon a form prescribed
20 and approved by the department, verified by the applicant's oath,
21 and accompanied by an application fee established and collected
22 as provided in section 71-162. The application shall include the
23 applicant's social security number.

24 Sec. 777. Section 71-1,132.37, Reissue Revised Statutes
25 of Nebraska, is amended to read:

1 ~~71-1,132.37~~ An applicant for a license to practice
2 as a licensed practical nurse shall ~~file with the department~~
3 a written application for a license which shall include the
4 applicant's social security number, pay the fee established as
5 provided in section ~~71-162~~, and submit satisfactory proof that the
6 applicant: ~~(1) Is of good moral character; (2) Has~~ has completed four
7 years of high school study or its equivalent as determined by the
8 board, ~~and (3) Has~~ has completed the basic curriculum in and holds
9 a diploma from an approved program of nursing. There is no minimum
10 age requirement for licensure as a licensed practical nurse.

11 Sec. 778. Section 71-1,132.14, Reissue Revised Statutes
12 of Nebraska, is amended to read:

13 ~~71-1,132.14~~ An applicant for a license as a registered
14 nurse or as a licensed practical nurse shall pass an examination ~~in~~
15 ~~such subjects as the board may determine. The department shall give~~
16 ~~notice of the time and place of all examinations required by the~~
17 ~~Nurse Practice Act. Upon the applicant's passing such examination~~
18 ~~and meeting all other requirements for licensure, the department,~~
19 ~~upon the recommendation of the board, shall issue to the applicant~~
20 ~~a license to practice nursing as a registered nurse or as a~~
21 ~~licensed practical nurse. as prescribed by the board in rules and~~
22 regulations.

23 Sec. 779. Section 71-1,132.15, Reissue Revised Statutes
24 of Nebraska, is amended to read:

25 ~~71-1,132.15~~ The department may issue a license to

1 practice nursing as a registered nurse or as a licensed practical
2 nurse by endorsement to an applicant who has been duly licensed as
3 a registered nurse or a licensed practical nurse under the laws of
4 another state or territory, if in the opinion of the department,
5 upon the recommendation of the board, the applicant meets the
6 qualifications required of registered nurses or licensed practical
7 nurses in this state. An applicant for a license as a registered
8 nurse or a licensed practical nurse based on licensure in another
9 jurisdiction shall meet the continuing competency requirements as
10 specified in rules and regulations adopted and promulgated by the
11 board in addition to the standards set by the board pursuant to
12 section 26 of this act.

13 Sec. 780. Section 71-1,132.19, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 ~~71-1,132.19~~ Before recognizing a home state license to
16 practice nursing issued by a state which is a party to the Nurse
17 Licensure Compact, the board shall determine that such state's
18 qualifications for a nursing license are substantially equivalent
19 to or more stringent than the minimum qualifications for issuance
20 of a Nebraska license under the Nurse Practice Act.

21 Sec. 781. Section 71-1,132.16, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,132.16~~ (1) A temporary ~~permit~~ license to practice
24 nursing may be issued to:

25 ~~(1)~~ (a) An individual seeking to obtain licensure or

1 reinstatement of his or her license as a registered nurse or
2 licensed practical nurse when he or she has not practiced nursing
3 in the last five years. ~~Such permit~~ A temporary license issued
4 under this subdivision is valid only for the duration of the review
5 course of study and only for nursing practice required for the
6 review course of study;

7 ~~(2)~~ (b) Graduates of approved programs of nursing who
8 have passed the licensure examination, pending the completion
9 of application for Nebraska licensure as a registered nurse or
10 licensed practical nurse. ~~Such permit~~ A temporary license issued
11 under this subdivision is valid for a period not to exceed sixty
12 days; or

13 ~~(3)~~ (c) Nurses currently licensed in another state as
14 either a registered nurse or a licensed practical nurse who have
15 graduated from an educational program approved by the board,
16 pending completion of application for Nebraska licensure as a
17 registered nurse or licensed practical nurse. ~~Such permit~~ A
18 temporary license issued under this subdivision shall be valid
19 for a period not to exceed sixty days.

20 ~~Temporary permits~~ (2) A temporary license issued pursuant
21 to this section may be extended by the department, with the
22 recommendation with the concurrence of the board.

23 (3) An individual holding a temporary permit to practice
24 nursing on December 1, 2008, shall be deemed to be holding a
25 temporary license under this section on such date. The permitholder

1 may continue to practice under such temporary permit as a temporary
2 license until it would have expired under its terms or after any
3 period of extension under subsection (2) of this section.

4 Sec. 782. Any licensed practical nurse or registered
5 nurse whose license has been placed on inactive status due to a
6 change in primary state of residence under the Nurse Licensure
7 Compact may apply to reinstate his or her license upon (1)
8 change in primary state of residence back to Nebraska or to
9 another noncompact state, (2) meeting the continuing competency
10 requirements, and (3) paying the renewal fee.

11 Sec. 783. The department shall establish and collect fees
12 for credentialing under the Nurse Practice Act as provided in
13 sections 51 to 57 of this act.

14 Sec. 784. Section 71-1,132.17, Reissue Revised Statutes
15 of Nebraska, is amended to read:

16 ~~71-1,132.17~~ (1) In the interest of public safety and
17 consumer awareness, it is unlawful for any person to use the title
18 nurse in reference to himself or herself in any capacity, except
19 individuals who are or have been licensed as a registered nurse or
20 a licensed practical nurse. A Christian Science nurse may refer to
21 himself or herself only as a Christian Science nurse.

22 (2) The terms "nurse", "registered nurse", and "licensed
23 practical nurse" include persons licensed as registered nurses or
24 licensed practical nurses by a state that is a party to the Nurse
25 Licensure Compact. Unless the context otherwise indicates or unless

1 doing so would be inconsistent with the compact, nurses practicing
2 in this state under a license issued by a state that is a party to
3 the compact have the same rights and obligations as imposed by the
4 laws of this state on licensees licensed under the Nurse Practice
5 Act. The department has the authority to determine whether a right
6 or obligation imposed on licensees applies to nurses practicing
7 in this state under a license issued by a state that is a party
8 to the compact, unless that determination is inconsistent with the
9 compact.

10 Sec. 785. Section 71-1,132.18, Revised Statutes
11 Cumulative Supplement, 2006, is amended to read:

12 ~~71-1,132.18~~ Any person who holds a license to practice as
13 a registered nurse in this state has the right to use the title
14 Registered Nurse and the abbreviation R.N. No other person shall
15 assume or use such title or abbreviation or any words, letters,
16 signs, or devices to indicate that the person using the same is
17 authorized to practice registered nursing.

18 Sec. 786. Section 71-1,132.41, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 ~~71-1,132.41~~ Any person who holds a license to practice as
21 a licensed practical nurse in this state shall have the right to
22 use the title Licensed Practical Nurse and the abbreviation L.P.N.
23 No other person shall assume or use such title or abbreviation or
24 any words, letters, signs, or devices to indicate that the person
25 using the same is authorized to practice practical nursing in this

1 state.

2 Sec. 787. Section 71-1,132.38, Reissue Revised Statutes
3 of Nebraska, is amended to read:

4 ~~71-1,132.38~~ (1) In order to effectuate the transition
5 into compact administration, the board shall require all licensees
6 entering into or becoming subject to an order of probation or other
7 disciplinary action that limits practice or requires monitoring
8 to agree, as of the date of the order, not to practice in any
9 other state which is a party to the Nurse Licensure Compact during
10 the term of such probation or disciplinary action without prior
11 authorization from the other party state.

12 (2) Any licensee subject to disciplinary action, such
13 as revocation, suspension, probation, or any other action which
14 affects a licensee's authorization to practice, on the effective
15 date of entering the compact, is not entitled to a multistate
16 license privilege while such disciplinary action is in effect
17 unless practice in another state is authorized by this state and
18 any other state in which the licensee wishes to practice.

19 Sec. 788. Section 71-1,132.24, Reissue Revised Statutes
20 of Nebraska, is amended to read:

21 ~~71-1,132.24~~ An institution desiring to conduct a program
22 of nursing shall apply to the board and submit evidence to the
23 board that it is prepared to carry out the prescribed basic nursing
24 curriculum and to meet the other standards established by the Nurse
25 Practice Act and by the board.

1 Sec. 789. Section 71-1,132.25, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 ~~71-1,132.25~~ An application to conduct a program of
4 nursing shall be made in writing upon a form to be approved
5 and furnished by the board.

6 Sec. 790. Section 71-1,132.26, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 ~~71-1,132.26~~ A survey of the program institution shall be
9 made by the executive director or other representative appointed
10 by the board, who shall submit a written report of the survey to
11 the board. If, in the opinion of the board, the program meets the
12 requirements for approval, ~~it~~ the board shall approve the program.

13 Sec. 791. Section 71-1,132.27, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 ~~71-1,132.27~~ The board shall, through ~~its~~ the executive
16 director or other representative appointed by the board, survey all
17 programs of nursing in the state at time intervals to be determined
18 by the board through rules and regulations. Written reports of such
19 surveys shall be submitted to the board. The board shall act on the
20 report to grant or deny continuing approval of the program.

21 Sec. 792. Section 71-1,132.28, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,132.28~~ If the board determines that any approved
24 program of nursing is not maintaining the standards required by the
25 statutes, rules, and regulations, notice in writing, specifying the

1 defect or defects, shall be immediately given to the program. A
2 program which fails to correct these conditions to the satisfaction
3 of the board within a reasonable time shall be discontinued after
4 hearing.

5 Sec. 793. Section 71-1704, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-1704~~ Sections ~~71-1704 to 71-1726.02~~ 793 to 815 of this
8 act shall be known and may be cited as the Nurse Practitioner
9 Practice Act.

10 Sec. 794. Section 71-1706, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-1706~~ For purposes of the Nurse Practitioner Practice
13 Act and elsewhere in the Uniform Credentialing Act, unless the
14 context otherwise requires, the definitions ~~provided~~ found in
15 sections ~~71-1707 to 71-1717~~ shall 795 to 806 of this act apply.

16 Sec. 795. Section 71-1716.02, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-1716.02~~ Approved certification program means a
19 certification process for nurse practitioners utilized by an
20 approved certifying body that (1) requires evidence of completion
21 of a formal program of study in the nurse practitioner clinical
22 specialty, (2) requires successful completion of a nationally
23 recognized certification examination developed by the approved
24 certifying body, (3) provides an ongoing recertification program,
25 and (4) is approved by the board.

1 Sec. 796. Section 71-1716.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-1716.01~~ Approved certifying body means a national
4 certification organization which certifies qualified licensed
5 nurses for advanced practice in a clinical specialty area and
6 which (1) requires eligibility criteria related to education and
7 practice, (2) offers an examination in an advanced nursing area
8 which meets current psychometric guidelines and tests, and (3) is
9 approved by the board.

10 Sec. 797. Section 71-1717, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-1717~~ Approved nurse practitioner program means a
13 program which:

14 (1) Is a minimum of one full-time academic year or nine
15 months in length and includes both a didactic component and a
16 preceptorship of five hundred contact hours;

17 (2) Includes, but is not limited to, instruction in
18 biological, behavioral, and health sciences relevant to practice as
19 a nurse practitioner in a specific clinical area; and

20 (3) For the specialties of women's health and neonatal,
21 grants a post-master certificate, master's degree, or doctoral
22 degree for all applicants who graduated on or after July 1, 2007,
23 and for all other specialties, grants a post-master certificate,
24 master's degree, or doctoral degree for all applicants who
25 graduated on or after July 19, 1996.

1 Sec. 798. Section 71-1708, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-1708~~ Board means the Board of Advanced Practice
4 Registered Nurses.

5 Sec. 799. Section 71-1709.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-1709.01~~ Boards means the Board of Advanced Practice
8 Registered Nurses and the Board of Nursing of the State of
9 Nebraska.

10 Sec. 800. Section 71-1716, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-1716~~ Collaboration means a process and relationship
13 in which a nurse practitioner, together with other health
14 professionals, delivers health care within the scope of authority
15 of the various clinical specialty practices.

16 Sec. 801. Section 71-1709.02, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-1709.02~~ Consultation means a process whereby a nurse
19 practitioner seeks the advice or opinion of a physician or another
20 health care practitioner.

21 Sec. 802. Section 71-1716.03, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 ~~71-1716.03~~ (1) Integrated practice agreement means a
24 written agreement between a nurse practitioner and a collaborating
25 physician in which the nurse practitioner and the collaborating

1 physician provide for the delivery of health care through an
2 integrated practice. The integrated practice agreement shall
3 provide that the nurse practitioner and the collaborating physician
4 will practice collaboratively within the framework of their
5 respective scopes of practice. Each provider shall be responsible
6 for his or her individual decisions in managing the health care of
7 patients. Integrated practice includes consultation, collaboration,
8 and referral.

9 (2) The nurse practitioner and the collaborating
10 physician shall have joint responsibility for patient care, based
11 upon the scope of practice of each practitioner. The collaborating
12 physician shall be responsible for supervision of the nurse
13 practitioner to ensure the quality of health care provided to
14 patients.

15 (3) For purposes of this section:

16 ~~(1)~~ (a) Collaborating physician means a physician or
17 osteopathic physician licensed in Nebraska and practicing in the
18 same geographic area and practice specialty, related specialty, or
19 field of practice as the nurse practitioner; and

20 ~~(2)~~ (b) Supervision means the ready availability of
21 the collaborating physician for consultation and direction of
22 the activities of the nurse practitioner within the nurse
23 practitioner's defined scope of practice.

24 Sec. 803. Section 71-1712, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-1712~~ Licensed practitioner means any podiatrist,
2 dentist, physician, or osteopathic physician licensed to prescribe,
3 diagnose, and treat as provided in ~~section 71-173, 71-183,~~
4 ~~71-1,102, or 71-1,137.~~ the Uniform Credentialing Act.

5 Sec. 804. Section 71-1707, Revised Statutes Cumulative
6 Supplement, 2006, as amended by section 5, Legislative Bill 185,
7 One Hundredth Legislature, First Session, 2007, is amended to read:

8 ~~71-1707~~ Nurse practitioner means a registered nurse
9 certified as described in section ~~71-1722~~ 809 of this act and
10 licensed under the Advanced Practice Registered Nurse ~~Licensure~~
11 Practice Act to practice as a nurse practitioner.

12 Sec. 805. Section 71-1714, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~71-1714~~ Preceptorship means the clinical practice
15 component of an educational program for the preparation of nurse
16 practitioners.

17 Sec. 806. Section 71-1716.05, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 ~~71-1716.05~~ Referral means a process whereby a nurse
20 practitioner directs the patient to a physician or other health
21 care practitioner for management of a particular problem or aspect
22 of the patient's care.

23 Sec. 807. Section 71-1721, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 ~~71-1721 (1)~~ Until July 1, 2007, an advanced practice

1 registered nurse may provide health care services within specialty
2 areas. An advanced practice registered nurse shall function by
3 establishing collaborative, consultative, and referral networks as
4 appropriate with other health care professionals. Patients who
5 require care beyond the scope of practice of an advanced practice
6 registered nurse shall be referred to an appropriate health care
7 provider. Advanced practice registered nurse practice means health
8 promotion, health supervision, illness prevention and diagnosis,
9 treatment, and management of common health problems and chronic
10 conditions, including:

11 (a) Assessing patients, ordering diagnostic tests and
12 therapeutic treatments, synthesizing and analyzing data, and
13 applying advanced nursing principles;

14 (b) Dispensing, incident to practice only, sample
15 medications which are provided by the manufacturer and are provided
16 at no charge to the patient; and

17 (c) Prescribing therapeutic measures and medications
18 relating to health conditions within the scope of practice. Any
19 limitation on the prescribing authority of the advanced practice
20 registered nurse for controlled substances listed in Schedule II
21 of section 28-405 shall be recorded in the integrated practice
22 agreement established pursuant to section 71-1716.03.

23 (2) On and after July 1, 2007, a (1) A nurse practitioner
24 may provide health care services within specialty areas. A
25 nurse practitioner shall function by establishing collaborative,

1 consultative, and referral networks as appropriate with other
2 health care professionals. Patients who require care beyond the
3 scope of practice of a nurse practitioner shall be referred to an
4 appropriate health care provider.

5 (2) Nurse practitioner practice means health promotion,
6 health supervision, illness prevention and diagnosis, treatment,
7 and management of common health problems and chronic conditions,
8 including:

9 (a) Assessing patients, ordering diagnostic tests and
10 therapeutic treatments, synthesizing and analyzing data, and
11 applying advanced nursing principles;

12 (b) Dispensing, incident to practice only, sample
13 medications which are provided by the manufacturer and are provided
14 at no charge to the patient; and

15 (c) Prescribing therapeutic measures and medications
16 relating to health conditions within the scope of practice. Any
17 limitation on the prescribing authority of the nurse practitioner
18 for controlled substances listed in Schedule II of section 28-405
19 shall be recorded in the integrated practice agreement established
20 pursuant to section ~~71-1716.03.~~ 802 of this act.

21 (3) ~~On and after July 1, 2007,~~ a A nurse practitioner
22 who has proof of a current certification from an approved
23 certification program in a psychiatric or mental health specialty
24 may manage the care of patients committed under the Nebraska
25 Mental Health Commitment Act. Patients who require care beyond

1 the scope of practice of a nurse practitioner who has proof of
2 a current certification from an approved certification program in
3 a psychiatric or mental health specialty shall be referred to an
4 appropriate health care provider.

5 Sec. 808. Section 71-1726.01, Revised Statutes Cumulative
6 Supplement, 2006, as amended by section 12, Legislative Bill 185,
7 One Hundredth Legislature, First Session, 2007, is amended to read:

8 ~~71-1726.01~~ The Nurse Practitioner Practice Act does not
9 prohibit the performance of activities of a nurse practitioner by
10 an unlicensed person if performed:

11 (1) In an emergency situation;

12 (2) By a legally qualified person from another state
13 employed by the United States Government and performing official
14 duties in this state;

15 (3) By a person enrolled in an approved nurse
16 practitioner program for the preparation of nurse practitioners as
17 part of that approved program; and

18 (4) By a person holding a temporary license pursuant to
19 section ~~71-1724.01~~. 810 of this act.

20 Sec. 809. Section 71-1722, Revised Statutes Cumulative
21 Supplement, 2006, as amended by section 6, Legislative Bill 185,
22 One Hundredth Legislature, First Session, 2007, is amended to read:

23 ~~71-1722~~ (1) An applicant for licensure under the Advanced
24 Practice Registered Nurse Licensure Practice Act to practice as a
25 nurse practitioner shall have:

1 (a) A license as a registered nurse in the State of
2 Nebraska or the authority based upon the Nurse Licensure Compact to
3 practice as a registered nurse in Nebraska;

4 (b) Evidence of having successfully completed a
5 graduate-level program in the clinical specialty area of nurse
6 practitioner practice, which program is accredited by a national
7 accrediting body;

8 (c) Evidence of having successfully completed thirty
9 contact hours of education in pharmacotherapeutics; and

10 (d) Proof of having passed an examination pertaining to
11 the specific nurse practitioner role in nursing adopted or approved
12 by the board with the approval of the department. Such examination
13 may include any recognized national credentialing examination for
14 nurse practitioners conducted by an approved certifying body which
15 administers an approved certification program.

16 (2) If more than five years have elapsed since the
17 completion of the nurse practitioner program or since the applicant
18 has practiced in the specific nurse practitioner role, the
19 applicant shall meet the requirements in subsection (1) of this
20 section and provide evidence of continuing competency as required
21 by the board, ~~pursuant to section 71-17,135.~~

22 Sec. 810. Section 71-1724.01, Revised Statutes Cumulative
23 Supplement, 2006, as amended by section 11, Legislative Bill 185,
24 One Hundredth Legislature, First Session, 2007, is amended to read:

25 ~~71-1724.01~~ The department may grant a temporary license

1 to practice as a nurse practitioner for up to one hundred twenty
2 days upon application:

3 (1) To graduates of an approved nurse practitioner
4 program pending results of the first credentialing examination
5 following graduation;

6 (2) To a nurse practitioner lawfully authorized to
7 practice in another state pending completion of the application
8 for a Nebraska license; and

9 (3) To applicants for purposes of a reentry program or
10 supervised practice as part of continuing competency activities
11 established by the board, ~~pursuant to section 71-17,135.~~

12 A temporary license issued pursuant to this section may
13 be extended for up to one year with the approval of the board. An
14 individual holding a temporary permit as a nurse practitioner on
15 ~~the operative date of this section July 1, 2007,~~ shall be deemed to
16 be holding a temporary license under this section on such date. The
17 permitholder may continue to practice under such temporary permit
18 as a temporary license until it would have expired under its terms.

19 Sec. 811. Section 71-1724, Revised Statutes Cumulative
20 Supplement, 2006, as amended by section 10, Legislative Bill 185,
21 One Hundredth Legislature, First Session, 2007, is amended to read:

22 ~~71-1724~~ To renew a license to practice as a nurse
23 practitioner, the applicant shall have:

24 (1) Documentation of a minimum of two thousand eighty
25 hours of practice as a nurse practitioner within the five years

1 immediately preceding renewal. These practice hours shall fulfill
2 the requirements of the practice hours required for registered
3 nurse renewal. Practice hours as an advanced practice registered
4 nurse prior to July 1, 2007, shall be used to fulfill the
5 requirements of this section; and

6 (2) Proof of current certification in the specific nurse
7 practitioner clinical specialty area by an approved certification
8 program.

9 Sec. 812. Section 71-1723.04, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 ~~71-1723.04~~ (1) Nurse practitioners shall maintain in
12 effect professional liability insurance with such coverage and
13 limits as may be established by the board.

14 (2) If a nurse practitioner renders services in a
15 hospital or other health care facility, he or she shall be
16 subject to the rules and regulations of that facility. Such rules
17 and regulations may include, but need not be limited to, reasonable
18 requirements that the nurse practitioner and all collaborating
19 licensed practitioners maintain professional liability insurance
20 with such coverage and limits as may be established by the hospital
21 or other health care facility upon the recommendation of the
22 medical staff.

23 Sec. 813. Section 71-1723.01, Revised Statutes Cumulative
24 Supplement, 2006, as amended by section 8, Legislative Bill 185,
25 One Hundredth Legislature, First Session, 2007, is amended to read:

1 ~~71-1723.01~~ A person licensed as an advanced practice
2 registered nurse in this state on July 1, 2007, shall be issued
3 a license by the department under the Advanced Practice Registered
4 Nurse Licensure Act to practice as a nurse practitioner under the
5 Nurse Practitioner Act on such date. A person licensed to practice
6 as a nurse practitioner in this state may use the title nurse
7 practitioner and the abbreviation NP.

8 Sec. 814. Section 71-1723.02, Revised Statutes Cumulative
9 Supplement, 2006, as amended by section 9, Legislative Bill 185,
10 One Hundredth Legislature, First Session, 2007, is amended to read:

11 ~~71-1723.02~~ (1) Prior to commencing practice as a nurse
12 practitioner, an individual (a) who has a master's degree or
13 doctorate degree in nursing and has completed an approved nurse
14 practitioner program, (b) who can demonstrate separate course
15 work in pharmacotherapeutics, advanced health assessment, and
16 pathophysiology or psychopathology, and (c) who has completed a
17 minimum of two thousand hours of practice under the supervision of
18 a physician, shall submit to the department an integrated practice
19 agreement with a collaborating physician and shall furnish proof of
20 professional liability insurance required under section 812 of this
21 act. ~~71-1723.04~~ prior to commencing practice.

22 (2) A nurse practitioner who needs to obtain the two
23 thousand hours of supervised practice required under subdivision
24 (1)(c) of this section shall (a) submit to the department
25 one or more integrated practice agreements with a collaborating

1 physician, (b) furnish proof of jointly approved protocols with a
2 collaborating physician which shall guide the nurse practitioner's
3 practice, and (c) furnish proof of professional liability insurance
4 required under section ~~71-1723.04~~, 812 of this act.

5 (3) If, after a diligent effort to obtain an integrated
6 practice agreement, a nurse practitioner is unable to obtain an
7 integrated practice agreement with one physician, the board may
8 waive the requirement of an integrated practice agreement upon a
9 showing that the applicant (a) meets the requirements of subsection
10 (1) of this section, (b) has made a diligent effort to obtain
11 an integrated practice agreement, and (c) will practice in a
12 geographic area where there is a shortage of health care services.

13 Sec. 815. Section 71-1723.03, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~71-1723.03~~ Nothing in the Nurse Practitioner Practice
16 Act shall prohibit a nurse practitioner from consulting or
17 collaborating with and referring patients to health care providers
18 not included in the nurse practitioner's integrated practice
19 agreement.

20 Sec. 816. Sections 816 to 840 of this act shall be known
21 and may be cited as the Nursing Home Administrator Practice Act.

22 Sec. 817. For purposes of the Nursing Home Administrator
23 Practice Act and elsewhere in the Uniform Credentialing Act, unless
24 the context otherwise requires, the definitions found in sections
25 818 to 831 of this act apply.

1 Sec. 818. Accredited institution means a postsecondary
2 educational institution approved by the board.

3 Sec. 819. Administrator or nursing home administrator
4 means any individual who meets the education and training
5 requirements of section 834 of this act and is responsible for
6 planning, organizing, directing, and controlling the operation of a
7 nursing home or an integrated system or who in fact performs such
8 functions, whether or not such functions are shared by one or more
9 other persons. Notwithstanding this section or any other provision
10 of law, the administrator of an intermediate care facility for
11 the mentally retarded may be either a licensed nursing home
12 administrator or a qualified mental retardation professional.

13 Sec. 820. Administrator-in-training means a person who is
14 undergoing training to become a nursing home administrator and is
15 directly supervised in a nursing home by a certified preceptor.

16 Sec. 821. Board means the Board of Nursing Home
17 Administration.

18 Sec. 822. Certified preceptor means a person who is
19 currently licensed by the State of Nebraska as a nursing home
20 administrator, has three years of experience as a nursing home
21 administrator, has practiced within the last two years in a
22 nursing home, and is approved by the department to supervise an
23 administrator-in-training or a person in a mentoring program.

24 Sec. 823. Core educational requirements means courses
25 necessary for licensure as a nursing home administrator and

1 includes courses in patient care and services, social services,
2 financial management, administration, and rules, regulations, and
3 standards relating to the operation of a health care facility.

4 Sec. 824. Degree or advanced degree means a
5 baccalaureate, master's, or doctorate degree from an accredited
6 institution and which includes studies in the core educational
7 requirements.

8 Sec. 825. Degree or advanced degree in health care
9 means a baccalaureate, master's, or doctorate degree from an
10 accredited institution in health care, health care administration,
11 or services.

12 Sec. 826. Integrated system means a health and human
13 services organization offering different levels of licensed care or
14 treatment on the same premises.

15 Sec. 827. Internship means that aspect of the educational
16 program of the associate degree in long-term care administration
17 which allows for practical experience in a nursing home and occurs
18 under the supervision of a certified preceptor.

19 Sec. 828. Nursing degree means a degree or diploma in
20 nursing from an accredited program of nursing approved by the Board
21 of Nursing.

22 Sec. 829. Nursing home or home for the aged or infirm
23 means any institution or facility licensed as a nursing facility or
24 a skilled nursing facility by the department pursuant to the Health
25 Care Facility Licensure Act, whether proprietary or nonprofit,

1 including, but not limited to, homes for the aged or infirm owned
2 or administered by the federal or state government or an agency or
3 political subdivision thereof.

4 Sec. 830. Previous work experience means at least two
5 years working full time in a nursing home or previous work
6 experience in health care administration.

7 Sec. 831. Previous work experience in health care
8 administration means at least two years working full time as an
9 administrator or director of nursing of a hospital with a long-term
10 care unit or assisted-living facility or director of nursing in a
11 nursing home.

12 Sec. 832. Section 71-6065, Reissue Revised Statutes of
13 Nebraska, as amended by section 649, Legislative Bill 296, One
14 Hundredth Legislature, First Session, 2007, is amended to read:

15 71-6065 (1) ~~The Board of Examiners in Nursing Home~~
16 ~~Administration is created.~~ The board shall be under the supervision
17 of the department and shall consist of a designated representative
18 of the department and the following members appointed by the State
19 Board of Health: seven professional members and two public members
20 appointed pursuant to section 58 of this act. The members shall
21 meet the requirements of sections 64 and 65 of this act.

22 (2) The professional members shall consist of: (a) Two
23 members who hold active licenses and are currently employed in
24 the management, operation, or ownership of proprietary homes for
25 the aged or infirm or nursing homes that serve the aged or infirm

1 in Nebraska; (b) two members who hold active licenses and are
2 currently employed in the management or operation of a nonprofit
3 home for the aged or infirm or nursing home or hospital caring
4 for chronically ill or infirm, aged patients; (c) one member who
5 is a member of the faculty of a college or university located in
6 the state who is actively engaged in a teaching program relating
7 to business administration, social work, gerontology, or some other
8 aspect of the administration of health care facilities; (d) one
9 member who is a licensed physician and surgeon with a demonstrated
10 interest in long-term care; and (e) one member who is a licensed
11 registered nurse. ~~and (f) two members who are laypersons, at~~
12 ~~least the age of majority, residents of this state for at least~~
13 ~~five years preceding appointment, and representative of consumer~~
14 ~~viewpoints. The members of the board shall serve as members of such~~
15 ~~board until the expiration of their respective terms or until their~~
16 ~~successors have been appointed and qualified. Each appointed member~~
17 ~~who is an administrator shall be licensed pursuant to sections~~
18 ~~71-6053 to 71-6068.~~

19 ~~(2) The appointed members shall be appointed for terms of~~
20 ~~three years, and the terms shall be staggered so that the terms of~~
21 ~~three appointed members of the board expire each year. The term of~~
22 ~~each member shall commence on the first day of December following~~
23 ~~the expiration of the term of the member whom such person succeeds.~~
24 ~~A vacancy in any appointive position on the board shall be filled~~
25 ~~for the unexpired portion of the term by appointment by the State~~

1 Board of Health in the same manner as original appointments are
2 made. Appointed members shall serve until their successors are
3 appointed and qualified.

4 (3) The State Board of Health shall have power to remove
5 from office at any time any member of the board after a public
6 hearing pursuant to the Administrative Procedure Act for physical
7 or mental incapacity to carry out the duties of a board member, for
8 continued neglect of duty, for incompetency, for acting beyond the
9 individual member's scope of authority, for malfeasance in office,
10 for any cause for which a license may be suspended or revoked, or
11 for a lack of licensure.

12 (4) The department shall adopt and promulgate rules and
13 regulations which establish definitions of conflicts of interest
14 for members of the board and which establish procedures in the case
15 such a conflict arises.

16 Sec. 833. Section 71-6062, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-6062 Each home for the aged or infirm or nursing
19 home within the state shall be operated under the supervision of
20 an administrator duly licensed in the manner provided in sections
21 71-6053 to 71-6068. the Nursing Home Administrator Practice Act.
22 If there is a vacancy in the position of licensed administrator
23 of a nursing home, the owner, governing body, or other appropriate
24 authority of the nursing home may select a person to apply for a
25 provisional license in nursing home administration to serve as the

1 administrator of such facility.

2 Sec. 834. Section 71-6054, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 ~~71-6054 (1)(a)~~ (1) The ~~board~~ department shall issue a
5 license to an applicant who submits ~~(i)~~ (a) satisfactory evidence
6 of completion of ~~(A)~~ (i) an associate degree which includes the
7 core educational requirements and an administrator-in-training
8 program under a certified preceptor, ~~(B)~~ (ii) a degree or
9 an advanced degree and a mentoring program under a certified
10 preceptor, ~~(C)~~ (iii) a nursing degree, previous work experience
11 in health care administration, and a mentoring program under a
12 certified preceptor, ~~(D)~~ (iv) a degree or an advanced degree
13 in health care and previous work experience in health care
14 administration, or ~~(E)~~ (v) an associate degree which includes
15 the core educational requirements, previous work experience,
16 and a mentoring program under a certified preceptor, ~~(ii)~~ and
17 (b) evidence of successful passage of the National Association
18 of Boards of Examiners for Nursing Home Administration written
19 examination, and ~~(iii)~~ his or her social security number.

20 (2) The ~~board~~ department shall license administrators
21 in accordance with ~~sections 71-6053 to 71-6068~~ the Nursing Home
22 Administrator Practice Act and standards, rules, and regulations
23 adopted and promulgated by the ~~board~~ department pursuant to such sections.
24 department, with the recommendation of the board. The license shall
25 not be transferable or assignable.

1 (3) Each administrator shall be responsible for
2 and oversee the operation of only one licensed facility or
3 one integrated system, except that an administrator may make
4 application to the ~~board~~ department for approval to be responsible
5 for and oversee the operations of a maximum of three licensed
6 facilities if such facilities are located within two hours' travel
7 time of each other or to act in the dual role of administrator
8 and department head but not in the dual role of administrator
9 and director of nursing. In reviewing the application, the ~~board~~
10 department may consider the proximity of the facilities and
11 the number of licensed beds in each facility. An administrator
12 responsible for and overseeing the operations of any integrated
13 system is subject to disciplinary action against his or her license
14 for any regulatory violations within each system.

15 ~~(b)~~ (4) (a) Notwithstanding the provisions of ~~sections~~
16 ~~71-6053 to 71-6068,~~ the Nursing Home Administrator Practice
17 Act, the ~~board~~ department shall issue a license as a nursing
18 home administrator to an applicant who will function as the
19 administrator of a facility caring primarily for persons with head
20 injuries and associated disorders who submits satisfactory evidence
21 that he or she (i) has at least two years of experience working
22 with persons with head injuries or severe physical disabilities,
23 at least one of which was spent in an administrative capacity,
24 (ii) is (A) a psychologist with at least a master's degree
25 in psychology from an accredited college or university and has

1 specialized training or one year of experience working with persons
2 with traumatic head injury or severe physical disability, (B) a
3 physician licensed under the Uniform ~~Licensing Law~~ Credentialing
4 Act to practice medicine and surgery or psychiatry and has
5 specialized training or one year of experience working with persons
6 with traumatic head injury or severe physical disability, (C)
7 an educator with at least a master's degree in education from
8 an accredited college or university and has specialized training
9 or one year of experience working with persons with traumatic
10 head injury or severe physical disability, or (D) a certified
11 social worker, a certified master social worker, or a licensed
12 mental health practitioner certified or licensed under the Uniform
13 ~~Licensing Law~~ Credentialing Act and has at least three years of
14 social work or mental health practice experience and specialized
15 training or one or more years of experience working with persons
16 who have experienced traumatic head injury or are severely
17 physically disabled, and (iii) is of good moral character. The
18 applicant shall also provide his or her social security number.

19 (b) A license issued pursuant to this ~~subdivision~~
20 subsection shall be issued without examination and without the
21 requirement of completion of an administrator-in-training or
22 mentoring program. Such license may be renewed without the
23 completion of any continuing competency requirements.

24 ~~(2) Licenses may be denied, suspended, limited, refused~~
25 ~~renewal, or revoked by the department for due cause which~~

1 shall include: (a) Fraud in procuring a license; (b) immoral,
2 unprofessional, or dishonorable conduct; (c) habitual intoxication
3 or addiction to the use of drugs; (d) distribution of intoxicating
4 liquors or drugs for other than lawful purposes; (e) conviction
5 of a felony; (f) physical or mental incapacity to perform
6 professional duties; (g) violation of any provision of sections
7 71-6053 to 71-6068 or standards, rules, and regulations adopted
8 and promulgated thereunder or of any law or standards, rules, and
9 regulations adopted and promulgated by the department relating to
10 the proper administration and management of a home for the aged
11 or infirm or nursing home; (h) commission of any of the acts or
12 offenses set forth in sections 71-147 and 71-148; and (i) failure
13 to pay the required fees. Except in cases of failure to pay the
14 required fees, no license shall be denied, suspended, limited,
15 refused renewal, or revoked except after due notice and opportunity
16 for a hearing. Disciplinary actions and proceedings shall be
17 conducted as specified in the Uniform Licensing Law. Any denial,
18 suspension, limitation, refusal of renewal, or revocation of such
19 license may be appealed, and the appeal shall be in accordance
20 with the Administrative Procedure Act. A person whose license
21 has been revoked, suspended, or limited may petition the board
22 for reinstatement in the manner provided by sections 71-161.04 to
23 71-161.06.

24 Sec. 835. Section 71-6055, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-6055~~ (1) Except as provided in ~~subdivisions~~
2 ~~(1)(a)(i)(D)~~ and ~~(1)(b)~~ subdivision (1)(a)(iv) and subsection
3 (4) of section 71-6054, 834 of this act, in order for a person
4 to become licensed as a nursing home administrator, he or she
5 shall complete an administrator-in-training program or a mentoring
6 program. The administrator-in-training program shall occur in a
7 ~~home for the aged or infirm or~~ nursing home under the direct
8 supervision of a certified preceptor, and it may be gained as
9 an internship which is part of an approved associate degree. A
10 mentoring program shall occur in a ~~home for the aged or infirm~~
11 ~~or~~ nursing home under the supervision of a certified preceptor.
12 The certified preceptor in a mentoring program need not be at
13 such facility during the period of such supervision but shall
14 be available to assist with questions or problems as needed. A
15 mentoring program may be gained as an internship which is part of
16 a degree or advanced degree. A person in a mentoring program may
17 apply for a provisional license as provided in section ~~71-6063-~~
18 838 of this act.

19 (2) An applicant may begin his or her
20 administrator-in-training or mentoring program upon application to
21 the ~~board~~ department with the required fee, evidence that he or
22 she has completed at least fifty percent of the core educational
23 requirements, and evidence of an agreement between the certified
24 preceptor and the applicant for at least six hundred forty hours of
25 training and experience, to be gained in not less than four months.

1 Such training shall occur in a Nebraska-licensed home for the aged
2 or infirm or nursing home under a certified preceptor.

3 (3) The certified preceptor shall submit a report to
4 the department by the fifth day of each month for the duration
5 of the administrator-in-training or mentoring program, describing
6 the nature and extent of training completed to date. At the
7 conclusion of the program, the certified preceptor shall report to
8 the department whether the applicant has successfully completed the
9 board's approved course for such program. With the concurrence of
10 the certified preceptor, the applicant may remain in such program
11 until successfully completed or may reapply to enter another
12 administrator-in-training or mentoring program.

13 (4) (a) The administrator-in-training or mentoring program
14 shall occur under the supervision of a certified preceptor. An
15 applicant to become a certified preceptor shall (i) be currently
16 licensed as a nursing home administrator in the State of Nebraska,
17 (ii) have three years of experience as a nursing home administrator
18 in the five years immediately preceding certification, and (iii)
19 complete a preceptor training course approved by the board.

20 ~~(b)-(i)~~ (b) All preceptor certificates shall expire on
21 December 31 of every fourth year beginning December 31, 2000. The
22 procedures for renewal shall be in the same manner as section
23 71-6061. Each certified preceptor shall, in the period since his
24 or her certificate was issued or last renewed, complete at least
25 twelve hours of preceptor training approved by the board. Each

1 certified preceptor shall submit evidence, on forms provided by
2 the department, that he or she has satisfied the requirements of
3 this subsection before his or her certificate is renewed. Such
4 evidence shall be submitted at the time application for renewal
5 of a certificate is made. Before acting on the an application for
6 renewal, the board shall review the performance of the applicant.
7 Such review may include consideration of survey and complaint
8 information, student evaluations, and any other related information
9 deemed relevant by the board. The board may deny the an application
10 for renewal upon a finding that the applicant's performance has
11 been unsatisfactory based on such review.

12 ~~(ii) When any certificate holder fails, within thirty~~
13 ~~days of the expiration of a certificate, to submit the twelve~~
14 ~~hours of preceptor training, the department shall revoke such~~
15 ~~certificate after notice and opportunity for hearing. In order for~~
16 ~~a preceptor certification to be reinstated, the applicant must meet~~
17 ~~the requirements of this subsection.~~

18 Sec. 836. Section 71-6056, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-6056~~ The ~~board~~ department may issue a license to any
21 person who holds a current nursing home administrator license from
22 another jurisdiction and is at least nineteen years old.

23 Sec. 837. Section 71-6058, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~71-6058~~ Any person desiring to take the examination

1 for a nursing home administrator license shall apply to the
2 board at least thirty days prior to examination on a form
3 provided by the department and sworn to by the applicant.
4 Such application shall be accompanied by the examination fee
5 and such documents and affidavits as are necessary to show
6 the eligibility of the candidates to take such examination.
7 An applicant may request to take the next regularly scheduled
8 examination any time after receiving notification of registration
9 as an administrator-in-training or a person in a mentoring program,
10 but the license shall not be issued until the board receives
11 documentation of completion of the administrator-in-training or
12 mentoring program and completion of all licensure requirements.

13 Sec. 838. Section 71-6063, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-6063 (1) If there is a vacancy in the position of
16 licensed administrator of a home for the aged or infirm or nursing
17 home, the owner, governing body, or other appropriate authority of
18 the home for the aged or infirm or nursing home may select a A
19 person selected to apply for a provisional license in nursing home
20 administration to serve as the administrator of such facility shall
21 apply to the department. Such license, if issued, shall be valid
22 for no more than one hundred eighty calendar days and may be issued
23 to an individual not otherwise qualified for licensure as a nursing
24 home administrator in order to maintain the daily operations of the
25 facility and may not be renewed. The ~~board~~ department may grant

1 an extension not to exceed ninety days if the person seeking the
2 provisional license is in a mentoring program.

3 (2) The ~~board~~ department may issue a provisional license
4 to an individual who has applied for a mentoring program.
5 Such provisional license will allow the applicant to serve as
6 administrator in the specified facility for one hundred eighty
7 calendar days and may not be renewed. The board may grant an
8 extension not to exceed ninety days if the person seeking the
9 provisional license is in a mentoring program.

10 (3) An applicant for a provisional license under this
11 section shall: (a) Be at least twenty-one years of age; (b) be
12 employed on a full-time basis of not less than forty hours per week
13 to perform the duties of the nursing home administrator; and (c)
14 have no history of unprofessional conduct or denial or disciplinary
15 action against a nursing home administrator license or a license
16 to practice any other profession by any lawful licensing authority.
17 ~~for reasons outlined in subsection (2) of section 71-6054.~~

18 Sec. 839. Section 71-6060, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-6060 (1) Except as provided in subdivision (1)(b)~~
21 ~~of section 71-6054, each administrator holding an active license~~
22 ~~shall, on or before December 31 of each even-numbered year,~~
23 ~~complete continuing competency activities as required by the board~~
24 ~~pursuant to section 71-6067 as a prerequisite for the Nebraska~~
25 ~~licensee's next subsequent biennial license renewal. Each licensee~~

1 shall document as required by the department that he or she has
2 complied with the requirements set forth in this section during
3 the preceding two-year period. Each licensee shall be responsible
4 for maintaining in his or her personal files records of compliance
5 with the continuing competency requirements. Licensees who have
6 not complied with such requirements shall not be issued a renewal
7 license unless exempt for any of the following reasons:

8 (a) The licensee served in the regular armed forces
9 of the United States during any part of the twenty-four months
10 immediately preceding the Nebraska license renewal date;

11 (b) The licensee submits proof that he or she was
12 suffering from a serious or disabling illness or physical
13 disability which prevented his or her compliance with the
14 continuing competency requirements preceding the Nebraska license
15 renewal date;

16 (c) The licensee was first licensed within the
17 twenty-four months immediately preceding the Nebraska license
18 renewal date; or

19 (d) The licensee did not reside in Nebraska during
20 the twenty-four months immediately preceding the Nebraska license
21 renewal date.

22 (2) An individual licensed pursuant to sections 71-6053
23 to 71-6068 may request to have his or her license placed on
24 inactive status upon its expiration. The request shall be submitted
25 to the department in writing, along with payment of the inactive

1 status fee. The department shall notify the licensee in writing of
2 the acceptance or denial of such request. If placed on inactive
3 status, the license may remain in such status for an indefinite
4 period of time. An inactive license may be placed on active
5 status upon completion by the licensee of all continuing competency
6 requirements in effect at the time of such request and payment of
7 the license renewal fee then due.

8 ~~(3)~~ Providers of continuing competency activities or
9 licensees may submit courses for review and approval by the board.
10 Each provider or licensee applying for approval of continuing
11 competency activities shall pay an application fee established and
12 collected as provided in section 71-162 for each program, seminar,
13 or course submitted for review.

14 Sec. 840. The department shall establish and collect fees
15 for credentialing under the Nursing Home Administrator Practice Act
16 as provided in sections 51 to 57 of this act.

17 Sec. 841. Section 71-6101, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 ~~71-6101~~ Sections ~~71-6101~~ ~~to~~ ~~71-6123~~ 841 to 871 of this
20 act shall be known and may be cited as the Occupational Therapy
21 Practice Act.

22 Sec. 842. Section 71-6102, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-6102~~ In order to (1) safeguard the public health,
25 safety, and welfare, (2) protect the public from being misled by

1 incompetent, unscrupulous, and unauthorized persons, (3) assure the
2 highest degree of professional conduct on the part of occupational
3 therapists and occupational therapy assistants, and (4) assure
4 the availability of occupational therapy services of high quality
5 to persons in need of such services, it is the purpose of the
6 Occupational Therapy Practice Act to provide for the regulation of
7 occupational therapists.

8 Sec. 843. Section 71-6103, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 ~~71-6103~~ For purposes of the Occupational Therapy Practice
11 Act and elsewhere in the Uniform Credentialing Act, unless the
12 context otherwise requires, the definitions found in sections 844
13 to 854 of this act apply. +

14 ~~(1) Active license means the license of a person who is~~
15 ~~acting, practicing, functioning, and working in compliance with the~~
16 ~~requirements of a license.~~

17 ~~(2) Association means a recognized national or state~~
18 ~~association for occupational therapy.~~

19 ~~(3) Board means the Board of Occupational Therapy~~
20 ~~Practice established by section 71-6115.~~

21 ~~(4) Credentialing means the process of obtaining state~~
22 ~~approval to provide health care services or human services or to~~
23 ~~change aspects of a current approval and includes, but is not~~
24 ~~limited to, granting permission to use a protected title that~~
25 ~~signifies that a person is qualified to provide the services within~~

1 the scope of practice of a profession;

2 (5) Deep thermal agent modalities means therapeutic
3 ultrasound and phonophoresis. Deep thermal agent modalities does
4 not include the use of diathermy or lasers;

5 (6) Department means the Department of Health and Human
6 Services Regulation and Licensure;

7 (7) Electrotherapeutic agent modalities means
8 neuromuscular electrical stimulation, transcutaneous electrical
9 nerve stimulation, and iontophoresis. Electrotherapeutic agent
10 modalities does not include the use of ultraviolet light;

11 (8) Mechanical devices means intermittent compression
12 devices. Mechanical devices does not include devices to perform
13 spinal traction;

14 (9) Occupational therapist means a person holding an
15 active license to practice occupational therapy;

16 (10)(a) Occupational therapy means the use of purposeful
17 activity with individuals who are limited by physical injury
18 or illness, psychosocial dysfunction, developmental or learning
19 disabilities, or the aging process in order to maximize independent
20 function, prevent further disability, and achieve and maintain
21 health and productivity.

22 (b) Occupational therapy encompasses evaluation,
23 treatment, and consultation and may include (i) remediation
24 or restoration of performance abilities that are limited due
25 to impairment in biological, physiological, psychological, or

1 neurological processes, (ii) adaptation of task, process, or the
2 environment, or the teaching of compensatory techniques, in order
3 to enhance performance, (iii) disability prevention methods and
4 techniques which facilitate the development or safe application
5 of performance skills, and (iv) health promotion strategies and
6 practices which enhance performance abilities;

7 (11) Occupational therapy aide means a person who is
8 not licensed by the board and who provides supportive services to
9 occupational therapists and occupational therapy assistants;

10 (12) Occupational therapy assistant means a person
11 holding an active license to assist in the practice of occupational
12 therapy;

13 (13) Physical agent modalities means modalities that
14 produce a biophysiological response through the use of water,
15 temperature, sound, electricity, or mechanical devices; and

16 (14) Superficial thermal agent modalities means hot
17 packs, cold packs, ice, fluidotherapy, paraffin, water, and
18 other commercially available superficial heating and cooling
19 technologies.

20 Sec. 844. Association means a recognized national or
21 state association for occupational therapy.

22 Sec. 845. Board means the Board of Occupational Therapy
23 Practice.

24 Sec. 846. Deep thermal agent modalities means therapeutic
25 ultrasound and phonophoresis. Deep thermal agent modalities does

1 not include the use of diathermy or lasers.

2 Sec. 847. Electrotherapeutic agent modalities means
3 neuromuscular electrical stimulation, transcutaneous electrical
4 nerve stimulation, and iontophoresis. Electrotherapeutic agent
5 modalities does not include the use of ultraviolet light.

6 Sec. 848. Mechanical devices means intermittent
7 compression devices. Mechanical devices does not include devices
8 to perform spinal traction.

9 Sec. 849. Occupational therapist means a person holding a
10 current license to practice occupational therapy.

11 Sec. 850. (1) Occupational therapy means the use of
12 purposeful activity with individuals who are limited by physical
13 injury or illness, psychosocial dysfunction, developmental or
14 learning disabilities, or the aging process in order to maximize
15 independent function, prevent further disability, and achieve and
16 maintain health and productivity.

17 (2) Occupational therapy encompasses evaluation,
18 treatment, and consultation and may include (a) remediation
19 or restoration of performance abilities that are limited due
20 to impairment in biological, physiological, psychological, or
21 neurological processes, (b) adaptation of task, process, or the
22 environment, or the teaching of compensatory techniques, in order
23 to enhance performance, (c) disability prevention methods and
24 techniques which facilitate the development or safe application
25 of performance skills, and (d) health promotion strategies and

1 practices which enhance performance abilities.

2 Sec. 851. Occupational therapy aide means a person who
3 is not licensed under the Occupational Therapy Practice Act and
4 who provides supportive services to occupational therapists and
5 occupational therapy assistants.

6 Sec. 852. Occupational therapy assistant means a person
7 holding a current license to assist in the practice of occupational
8 therapy.

9 Sec. 853. Physical agent modalities means modalities that
10 produce a biophysiological response through the use of water,
11 temperature, sound, electricity, or mechanical devices.

12 Sec. 854. Superficial thermal agent modalities means
13 hot packs, cold packs, ice, fluidotherapy, paraffin, water, and
14 other commercially available superficial heating and cooling
15 technologies.

16 Sec. 855. Section 71-6115, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 ~~71-6115 The Board of Occupational Therapy Practice is~~
19 ~~established.~~ The board shall consist of at least four members
20 appointed by the State Board of Health, all of whom shall be
21 residents of this state. Any statewide association of occupational
22 therapists may submit a list of names of qualified persons from
23 which the State Board of Health may choose members of the Board of
24 Occupational Therapy Practice. pursuant to section 58 of this act.
25 Three of the persons appointed shall have been engaged in rendering

1 services to the public, teaching, or research in occupational
2 therapy for at least five years immediately preceding their
3 appointments. Two of the persons appointed shall be occupational
4 therapists and one shall be either an occupational therapist or an
5 occupational therapy assistant and all shall be holders of active
6 licenses issued under the Occupational Therapy Practice Act during
7 their terms. ~~The fourth member shall be a member of the public with~~
8 ~~an interest in the rights of the consumers of health services. The~~
9 ~~members of the board shall serve five-year terms, except that the~~
10 ~~initial members of the board shall serve as follows: The member of~~
11 ~~the public shall serve one year and the remaining members shall~~
12 ~~serve terms of two, three, and four years as the State Board of~~
13 ~~Health shall designate. The term of each member shall commence~~
14 ~~on December 1 following the expiration of the preceding term. No~~
15 ~~person shall serve more than two full consecutive terms on the~~
16 ~~board. The State Board of Health shall fill any vacancy for an~~
17 ~~unexpired term in the same manner as the initial appointment. The~~
18 ~~members shall not receive compensation but shall be reimbursed for~~
19 ~~their actual expenses incurred while in the performance of their~~
20 ~~duties in the same manner as state employees pursuant to sections~~
21 ~~81-1174 to 81-1177. The board shall annually elect a chairperson~~
22 ~~and such other officers as it deems necessary and shall meet at~~
23 ~~least once per year or more as the department and board shall~~
24 ~~determine. Members of the board may be removed from office on~~
25 ~~the grounds and in the manner provided by section 71-118. One~~

1 of the persons appointed shall be a public member who meets the
2 requirements of section 65 of this act.

3 Sec. 856. Section 71-6104, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 ~~71-6104~~ No person may represent himself or herself to be
6 a licensed occupational therapist or occupational therapy assistant
7 unless he or she is licensed in accordance with the Occupational
8 Therapy Practice Act. Nothing in such act shall be construed to
9 prevent:

10 (1) Any person licensed in this state pursuant to ~~Chapter~~
11 ~~71~~ the Uniform Credentialing Act from engaging in the profession or
12 occupation for which he or she is licensed;

13 (2) The activities and services of any person employed
14 as an occupational therapist or occupational therapy assistant ~~by~~
15 who serves in the armed forces, of the United States or the United
16 States Public Health Service or who is employed by the United
17 States Department of Veterans Affairs, or the United States Public
18 Health Service if such person provides occupational therapy solely
19 under the direction or control of the organization by which he or
20 she is employed, or other federal agencies, if their practice is
21 limited to that service or employment;

22 (3) The activities and services of any person pursuing
23 an accredited course of study leading to a degree or certificate
24 in occupational therapy if such activities and services constitute
25 a part of a supervised course of study and if such a person is

1 designated by a title which clearly indicates his or her status as
2 a student or trainee;

3 (4) The activities and services of any person fulfilling
4 the supervised fieldwork experience requirements of sections
5 ~~71-6106 and 71-6107~~ 858 and 859 of this act if such activities and
6 services constitute a part of the experience necessary to meet the
7 requirements of such sections; or

8 (5) Qualified members of other professions or
9 occupations, including, but not limited to, recreation specialists
10 or therapists, special education teachers, independent living
11 specialists, work adjustment trainers, caseworkers, and persons
12 pursuing courses of study leading to a degree or certification
13 in such fields, from doing work similar to occupational therapy
14 which is consistent with their training if they do not represent
15 themselves by any title or description to be occupational
16 therapists.

17 Sec. 857. Section 71-6105, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-6105~~ Any person who has applied to take the
20 examination under section ~~71-6106 or 71-6107~~ 858 or 859 of this act
21 and who has completed the education and experience requirements of
22 the Occupational Therapy Practice Act may be granted a temporary
23 ~~permit~~ license to practice as an occupational therapist or an
24 occupational therapy assistant. A temporary ~~permit~~ license shall
25 allow the person to practice only in association with a licensed

1 occupational therapist and shall be valid until the date on which
2 the results of the next licensure examination are available to
3 the department. The temporary ~~permit~~ license shall not be renewed
4 if the applicant has failed the examination. The ~~permit~~ temporary
5 license may be extended at the ~~discretion~~ by the department,
6 with the recommendation of the board, with the approval of the
7 ~~department.~~ In no case may a temporary ~~permit~~ license be extended
8 beyond one year.

9 An individual holding a temporary permit on December 1,
10 2008, shall be deemed to be holding a temporary license under the
11 Occupational Therapy Practice Act on such date. The permitholder
12 may continue to practice under such temporary permit as a temporary
13 license until it would have expired under its terms.

14 Sec. 858. Section 71-6106, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-6106~~ (1) An applicant applying for a license as an
17 occupational therapist shall file a ~~written application,~~ which
18 shall include the applicant's social security number, in the manner
19 and on forms provided by the department, ~~showing~~ show to the
20 satisfaction of the department that he or she:

21 (a) Has successfully completed the academic requirements
22 of an educational program in occupational therapy recognized
23 by the department and accredited by a nationally recognized
24 medical association or nationally recognized occupational therapy
25 association;

1 (b) Has successfully completed a period of supervised
2 fieldwork experience at an educational institution approved by the
3 department and where the applicant's academic work was completed or
4 which is part of a training program approved by such educational
5 institution. A minimum of six months of supervised fieldwork
6 experience shall be required for an occupational therapist; and

7 (c) Has passed an examination as provided in section
8 ~~71-6108, 860 of this act.~~

9 (2) Residency in this state shall not be a requirement of
10 licensure. A corporation, partnership, limited liability company,
11 or association shall not be licensed as an occupational therapist
12 pursuant to the Occupational Therapy Practice Act.

13 Sec. 859. Section 71-6107, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-6107~~ (1) An applicant applying for a license as an
16 occupational therapy assistant shall ~~file a written application in~~
17 ~~the manner and on forms provided by the department, showing show to~~
18 the satisfaction of the department that he or she:

19 (a) Has successfully completed the academic requirements
20 of an educational program in occupational therapy recognized
21 by the department and accredited by a nationally recognized
22 medical association or nationally recognized occupational therapy
23 association;

24 (b) Has successfully completed a period of supervised
25 fieldwork experience at an educational institution approved by the

1 department and where the applicant's academic work was completed or
2 which is part of a training program approved by such educational
3 institution. A minimum of two months of supervised fieldwork
4 experience shall be required for an occupational therapy assistant;
5 and

6 (c) Has passed an examination as provided in section
7 ~~71-6108~~, 860 of this act.

8 (2) Residency in this state shall not be a requirement
9 of licensure as an occupational therapy assistant. A corporation,
10 partnership, limited liability company, or association shall not
11 be licensed as an occupational therapy assistant pursuant to the
12 Occupational Therapy Practice Act.

13 Sec. 860. Section 71-6108, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~71-6108~~ (1) Each applicant for licensure pursuant to
16 the Occupational Therapy Practice Act shall be examined by a
17 written examination which tests his or her knowledge of the
18 basic and clinical sciences relating to occupational therapy
19 and occupational therapy theory and practice including, but not
20 limited to, professional skills and judgment in the utilization of
21 occupational therapy techniques and methods and such other subjects
22 as the board may deem useful to determine the applicant's fitness
23 to practice. The board shall approve the examination and establish
24 standards for acceptable performance. The board may choose a
25 nationally standardized occupational therapist and occupational

1 therapy assistant entry-level examination.

2 (2) Applicants for licensure shall be examined at a time
3 and place and under such supervision as the board may determine.
4 The board shall notify all applicants by mail of the time and place
5 of the examination.

6 ~~(3) The department may adopt and promulgate rules and
7 regulations to provide for the review of procedures for the
8 development and administration of examinations and to protect the
9 security of the content of examination questions and answers.
10 The department shall not enter into an agreement to adopt
11 an examination from a national testing service without first
12 obtaining from that service detailed documentation of the process
13 of examination development and maintenance.~~

14 Sec. 861. Section 71-6113, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-6113 ~~(1)(a)~~ Licenses issued under the Occupational
17 Therapy Practice Act shall be subject to biennial renewal and shall
18 expire August 1 of each even-numbered year unless renewed in the
19 manner provided by section 71-110 upon completion of the continuing
20 competency activities as required under subsection ~~(2)~~ of this
21 section and upon payment of the renewal fee established as provided
22 in section 71-162.

23 ~~(b)~~ A licensee whose license is revoked for nonpayment
24 of the biennial renewal fee as provided in section 71-110 may be
25 reinstated upon the recommendation of the board and the payment of

1 the required fees established as provided in section 71-162, except
2 that no reinstatement of a license may be granted more than five
3 years after its expiration.

4 ~~(2)(a)~~ Each Nebraska-licensed occupational therapist in
5 active practice within the State of Nebraska shall, on or before
6 August 1 of each even-numbered year, complete continuing competency
7 activities as required by the board as a prerequisite to renewal of
8 his or her license.

9 ~~(b)~~ Each Nebraska-licensed occupational therapy assistant
10 in active practice within the State of Nebraska shall, on or before
11 August 1 of each even-numbered year, complete continuing competency
12 activities as required by the board as a prerequisite to renewal of
13 his or her license.

14 ~~(3)~~ Every occupational therapist and occupational therapy
15 assistant shall provide documentation of completing such continuing
16 competency activities as required by the board.

17 The board shall biennially select, in a random manner, a
18 representative sample of the license renewal applications for audit
19 of compliance with continuing competency requirements.

20 ~~(4)~~ The department, on with the recommendation of the
21 board, may waive continuing competency requirements, in part or
22 in total, for any two-year licensing period when a licensee
23 submits documentation that circumstances beyond his or her control
24 prevented completion of such requirements as provided in section 46
25 of this act. ~~Such~~ In addition to circumstances determined by the

1 department to be beyond the licensee's control pursuant to such
2 section, such circumstances shall include situations in which:

3 ~~(a)~~ (1) The licensee holds a Nebraska license but does
4 not reside or practice in Nebraska;

5 ~~(b)~~ The licensee has served in the regular armed forces
6 of the United States during part of the ~~twenty-four~~ months
7 immediately preceding the license renewal date;

8 ~~(c)~~ (2) The licensee has submitted proof that he or
9 she was suffering from a serious or disabling illness or physical
10 disability which prevented completion of the required continuing
11 competency activities during the twenty-four months preceding the
12 license renewal date; and

13 ~~(d)~~ The licensee has been initially licensed by the board
14 within the ~~twenty-four~~ months immediately preceding the license
15 renewal date; and

16 ~~(e)~~ (3) The licensee has successfully completed two or
17 more semester hours of formal credit instruction biennially offered
18 by an accredited school or college which contributes to meeting
19 the requirements of an advanced degree in a postgraduate program
20 relating to occupational therapy.

21 Sec. 862. An applicant for licensure to practice as an
22 occupational therapist who has met the education and examination
23 requirements in section 858 of this act or to practice as an
24 occupational therapy assistant who has met the education and
25 examination requirements in section 859 of this act, who passed the

1 examination more than three years prior to the time of application
2 for licensure, and who is not practicing at the time of application
3 for licensure shall present proof satisfactory to the department
4 that he or she has within the three years immediately preceding
5 the application for licensure completed continuing competency
6 requirements approved by the board pursuant to section 45 of
7 this act.

8 Sec. 863. An applicant for licensure to practice as an
9 occupational therapist or to practice as an occupational therapy
10 assistant who has met the standards set by the board pursuant to
11 section 26 of this act for a license based on licensure in another
12 jurisdiction but is not practicing at the time of application
13 for licensure shall present proof satisfactory to the department
14 that he or she has within the three years immediately preceding
15 the application for licensure completed continuing competency
16 requirements approved by the board pursuant to section 45 of
17 this act.

18 Sec. 864. Section 71-6114, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~71-6114~~ The department shall establish and collect
21 fees for credentialing activities under the Occupational Therapy
22 Practice Act as provided in ~~section 71-162,~~ sections 51 to 57 of
23 this act.

24 Sec. 865. Section 71-6117, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 ~~71-6117~~ An occupational therapy aide shall function under
2 the guidance and responsibility of an occupational therapist and
3 may be supervised by an occupational therapist or an occupational
4 therapy assistant for specifically selected routine tasks for which
5 the aide has been trained and has demonstrated competence. The aide
6 shall comply with supervision requirements developed by the board.
7 The board shall develop supervision requirements for aides which
8 are consistent with prevailing professional standards.

9 Sec. 866. Section 71-6118, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 ~~71-6118~~ An occupational therapist may perform the
12 following services:

13 (1) Evaluate, develop, improve, sustain, or restore
14 skills in activities of daily living, work activities, or
15 productive activities, including instrumental activities of daily
16 living, and play and leisure activities;

17 (2) Evaluate, develop, remediate, or restore
18 sensorimotor, cognitive, or psychosocial components of performance;

19 (3) Design, fabricate, apply, or train in the use of
20 assistive technology or orthotic devices and train in the use of
21 prosthetic devices;

22 (4) Adapt environments and processes, including the
23 application of ergonomic principles, to enhance performance and
24 safety in daily life roles;

25 (5) If certified pursuant to section ~~71-6122~~, 870 of

1 this act, apply physical agent modalities as an adjunct to or
2 in preparation for engagement in occupations when applied by
3 a practitioner who has documented evidence of possessing the
4 theoretical background and technical skills for safe and competent
5 use;

6 (6) Evaluate and provide intervention in collaboration
7 with the client, family, caregiver, or others;

8 (7) Educate the client, family, caregiver, or others in
9 carrying out appropriate nonskilled interventions; and

10 (8) Consult with groups, programs, organizations, or
11 communities to provide population-based services.

12 Sec. 867. Section 71-6119, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~71-6119~~ An occupational therapy assistant may deliver
15 occupational therapy services enumerated in section ~~71-6118~~ 866 of
16 this act in collaboration with and under the supervision of an
17 occupational therapist.

18 Sec. 868. Section 71-6120, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 ~~71-6120~~ (1) An occupational therapist may accept a
21 referral from a licensed health care professional for the purpose
22 of evaluation and rehabilitative treatment which may include,
23 but not be limited to, consultation, rehabilitation, screening,
24 prevention, and patient education services.

25 (2) Referrals may be for an individual case or may be for

1 an established treatment program that includes occupational therapy
2 services. If programmatic, the individual shall meet the criteria
3 for admission to the program and protocol for the treatment program
4 shall be established by the treatment team members.

5 (3) Referrals shall be in writing, except that oral
6 referrals may be accepted if they are followed by a written and
7 signed request of the person making the referral within thirty days
8 after the day on which the patient consults with the occupational
9 therapist.

10 Sec. 869. Section 71-6121, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-6121~~ The public may have direct access to occupational
13 therapy services.

14 Sec. 870. Section 71-6122, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 ~~71-6122~~ (1) In order to apply physical agent modalities,
17 an occupational therapist shall be certified pursuant to
18 this section. The department shall issue a certificate to an
19 occupational therapist to administer a physical agent modality if
20 the occupational therapist:

21 (a) Has successfully completed a training course approved
22 by the board and passed an examination approved by the board on the
23 physical agent modality;

24 (b) Is certified as a hand therapist by the Hand Therapy
25 Certification Commission or other equivalent entity recognized by

1 the board;

2 (c) Has a minimum of five years of experience in the
3 use of the physical agent modality and has passed an examination
4 approved by the board on the physical agent modality; or

5 (d) Has completed education during a basic educational
6 program which included demonstration of competencies for
7 application of the physical agent modality.

8 (2) The department shall issue a certificate to authorize
9 an occupational therapy assistant to set up and implement treatment
10 using superficial thermal agent modalities if the occupational
11 therapy assistant has successfully completed a training course
12 approved by the board and passed an examination approved by the
13 board. Such set up and implementation shall only be done under
14 the onsite supervision of an occupational therapist certified to
15 administer superficial thermal agent modalities.

16 (3) An occupational therapist shall not delegate
17 evaluation, reevaluation, treatment planning, and treatment goals
18 for physical agent modalities to an occupational therapy assistant.

19 Sec. 871. Section 71-6123, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 ~~71-6123~~ (1) The ~~department,~~ with the approval of the
22 board, shall adopt and promulgate rules and regulations necessary
23 to administer the Occupational Therapy Practice Act to protect the
24 public health, safety, and welfare and to insure, to the greatest
25 extent possible, the efficient, adequate, and safe practice of

1 ~~occupational therapy.~~(2) The rules and regulations shall include
2 ~~(a) definitions of unprofessional conduct,~~ ~~(b) definitions of~~
3 ~~conflicts of interest for members of the board and procedures in~~
4 ~~the case such a conflict arises,~~ ~~(c) regarding role delineation~~
5 ~~for occupational therapy assistants,~~ and ~~(d) continuing competency~~
6 ~~requirements. Continuing education is sufficient to meet continuing~~
7 ~~competency requirements. Such requirements may also include, but~~
8 ~~not be limited to, one or more of the continuing competency~~
9 ~~activities listed in section ~~71-161-09~~ 45 of this act which~~
10 ~~a licensed person may select as an alternative to continuing~~
11 ~~education.~~

12 ~~(3) Except as provided in subsection (4) of this section,~~
13 ~~the department, with the approval of the board, shall adopt and~~
14 ~~promulgate rules and regulations to implement Laws 2004, LB 1005,~~
15 ~~and shall provide for the changes regarding scope of practice to~~
16 ~~be implemented for licensees as soon as the rules and regulations~~
17 ~~become effective.~~

18 ~~(4) (2)~~ The board may adopt and promulgate rules and
19 regulations governing the training courses for an occupational
20 therapist to be certified to administer a physical agent modality.
21 The board may adopt and promulgate rules and regulations governing
22 the training course for an occupational therapy assistant to
23 be certified to set up and implement superficial thermal agent
24 modalities. In adopting such rules and regulations, the board
25 shall give consideration to the levels of training and experience

1 which are required, in the opinion of the board, to protect the
2 public health, safety, and welfare and to insure, to the greatest
3 extent possible, the efficient, adequate, and safe practice of
4 occupational therapy. Such rules and regulations shall include
5 the approval of examinations and the passing score for such
6 examinations for certification. ~~Any person who was practicing as~~
7 ~~(a) an occupational therapist and administering physical agent~~
8 ~~modalities or (b) an occupational therapy assistant setting up and~~
9 ~~implementing superficial thermal agent modalities prior to July~~
10 ~~16, 2004, may continue to administer such modalities until July~~
11 ~~1, 2006. After July 1, 2006, any person who wishes to administer~~
12 ~~such modalities shall obtain certification as provided by section~~
13 ~~71-6122.~~

14 ~~(5) Rules and regulations adopted and promulgated~~
15 ~~pursuant to the Occupational Therapy Practice Act prior to July 16,~~
16 ~~2004, shall continue in effect until revised, amended, repealed, or~~
17 ~~nullified pursuant to law.~~

18 Sec. 872. Sections 872 to 896 of this act shall be known
19 and may be cited as the Optometry Practice Act.

20 Sec. 873. Section 71-1,135.05, Reissue Revised Statutes
21 of Nebraska, is amended to read:

22 71-1,135.05 The Legislature finds and declares:

23 (1) That the scope of teaching and practice of optometry
24 has changed and that it is in the public interest that any person
25 seeking initial licensure as an optometrist and having graduated

1 from an accredited optometry school after August 25, 1989, in
 2 addition to any other requirements of the Uniform ~~Licensing Law,~~
 3 Credentialing Act, demonstrate adequate knowledge and training in
 4 all areas of the practice of optometry ~~as defined in section~~
 5 ~~71-1,133~~ and satisfactorily complete the educational requirements
 6 set forth in ~~section 71-1,135.02;~~ sections 885 to 887 of this act;
 7 and

8 (2) That it is in the public interest that no optometrist
 9 licensed pursuant to the Uniform ~~Licensing Law~~ Credentialing Act
 10 use pharmaceutical agents for diagnostic or therapeutic purposes
 11 unless he or she has taken the examination prescribed in section
 12 ~~71-1,135~~ 880 of this act after August 25, 1989, or unless he or she
 13 is certified pursuant to ~~section 71-1,135.02.~~ sections 885 to 887
 14 of this act.

15 Sec. 874. For purposes of the Optometry Practice Act
 16 and elsewhere in the Uniform Credentialing Act, unless the context
 17 otherwise requires, the definitions found in sections 875 to 877 of
 18 this act apply.

19 Sec. 875. Board means the Board of Optometry.

20 Sec. 876. Section 71-1,135.01, Reissue Revised Statutes
 21 of Nebraska, is amended to read:

22 ~~71-1,135.01 For purposes of the Uniform Licensing Law,~~
 23 ~~unless the context otherwise requires:~~

24 (1) Pharmaceutical agents, for diagnostic purposes, means
 25 anesthetics, cycloplegics, and mydriatics. ~~and~~

1 (2) Pharmaceutical agents, for therapeutic purposes,
2 means topical ophthalmic pharmaceutical agents which treat eye
3 diseases, infection, inflammation, and superficial abrasions, or
4 oral analgesics, including oral analgesics enumerated in Schedules
5 III and IV of section 28-405 necessary to treat conditions of the
6 eye, ocular adnexa, or visual system, or oral pharmaceutical agents
7 for the treatment of diseases or infections of the eye, ocular
8 adnexa, or visual system, or oral anti-inflammatory agents to treat
9 conditions of the eye, ocular adnexa, or visual system, excluding
10 steroids and immunosuppressive agents.

11 Sec. 877. Section 71-1,133, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-1,133 For purposes of the Uniform Licensing Law, the~~
14 (1) The practice of optometry means one or a combination of the
15 following, without the use of surgery:

16 ~~(1)~~ (a) The examination of the human eye to diagnose,
17 treat, or refer for consultation or treatment any abnormal
18 condition of the human eye, ocular adnexa, or visual system;

19 ~~(2)~~ (b) The employment of instruments, devices,
20 pharmaceutical agents, other than oral therapeutic agents used in
21 the treatment of glaucoma, and procedures intended for the purpose
22 of investigating, examining, diagnosing, treating, managing, or
23 correcting visual defects or abnormal conditions of the human eye,
24 ocular adnexa, or visual system or for the removal of superficial
25 eyelid, conjunctival, and corneal foreign bodies and the ordering

1 of procedures and laboratory tests rational to the diagnosis of
 2 conditions or diseases of the human eye, ocular adnexa, or visual
 3 system; or

4 ~~(3)~~ (c) The prescribing and application of lenses,
 5 devices containing lenses, prisms, contact lenses, ophthalmic
 6 devices excluding laser surgery, orthoptics, vision training,
 7 pharmaceutical agents, and prosthetic devices to correct, relieve,
 8 or treat defects or abnormal conditions of the human eye, ocular
 9 adnexa, or visual system.

10 (2) The practice of optometry does not include the
 11 treatment of infantile/congenital glaucoma which means the
 12 condition is present at birth.

13 Sec. 878. The board shall consist of four members,
 14 including three licensed optometrists and one public member.

15 Sec. 879. Section 71-1,134, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 ~~71-1,134~~ The practice of optometry ~~under sections~~
 18 ~~71-1,133 to 71-1,136.09~~ shall not be construed to:

19 (1) Include merchants or dealers who sell glasses as
 20 merchandise in an established place of business or who sell
 21 contact lenses from a prescription for contact lenses written by an
 22 optometrist or a person licensed to practice medicine and surgery
 23 and who do not profess to be optometrists or practice optometry; as
 24 defined in section 71-1,133;

25 (2) Restrict, expand, or otherwise alter the scope of

1 practice governed by other statutes; or

2 (3) Include the performance by an optometric assistant,
3 under the supervision of a licensed optometrist, of duties
4 prescribed in accordance with rules and regulations adopted and
5 promulgated by the department, with the ~~upon~~ recommendation of the
6 ~~Board of Optometry.~~ board.

7 Sec. 880. Section 71-1,135, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-1,135~~ Every applicant for a license to practice
10 optometry shall: (1) Present proof that he or she is a graduate
11 of an accredited school or college of optometry; and (2) pass an
12 examination approved by the ~~Board of Optometry.~~ board. After August
13 25, 1989, the examination shall cover all subject matter included
14 in the practice of optometry as defined in ~~section 71-1,133~~ for
15 applicants who have graduated from an accredited optometry school
16 after such date. After October 1, 1997, the examination shall
17 cover all subject matter included in the practice of optometry for
18 applicants who have graduated from an accredited optometry school
19 after such date.

20 Sec. 881. In addition to the standards set by the board
21 pursuant to section 26 of this act, an applicant for licensure
22 based on a license in another state or territory of the United
23 States or the District of Columbia must have been actively engaged
24 in the practice of optometry for at least one of the three years
25 immediately preceding the application for licensure in Nebraska.

1 Sec. 882. Section 71-1,135.04, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 ~~71-1,135.04~~ In issuing a license or renewal, the ~~Board of~~
4 ~~Optometry department, with the recommendation of the board,~~ shall
5 state whether such person licensed in the practice of optometry
6 has been certified to use pharmaceutical agents pursuant to section
7 ~~71-1,135.02~~ 885, 886, or 887 of this act and shall determine
8 an appropriate means to further identify those persons who are
9 certified in the diagnostic use of such agents as provided in
10 subdivision ~~(2)~~ (1)(b) of section ~~71-1,133~~ 877 of this act or
11 therapeutic use of such agents as provided in subdivision ~~(2)~~ ~~or~~
12 ~~(3)~~ (1)(b) or (c) of section ~~71-1,133~~ 877 of this act.

13 Sec. 883. Section 71-1,136.01, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 ~~71-1,136.01~~ Each Nebraska-licensed optometrist in active
16 practice within the State of Nebraska shall, ~~on or before August~~
17 ~~1~~ of each even-numbered year, complete continuing competency
18 activities as required by the Board of Optometry pursuant to
19 section ~~71-161.09~~ as a prerequisite for the licensee's next
20 subsequent license renewal.

21 The department, with the recommendation of the board,
22 may waive continuing competency requirements, in part or in
23 total, for any two-year licensing period when a credential holder
24 submits documentation that circumstances beyond his or her control
25 prevented completion of such requirements as provided in section

1 46 of this act. In addition to circumstances determined by the
2 department to be beyond the credential holder's control pursuant to
3 such section, such circumstances shall include situations in which:

4 (1) The credential holder has submitted proof that he or
5 she was suffering from a serious or disabling illness or physical
6 disability which prevented completion of the required continuing
7 competency activities during the twenty-four months preceding the
8 renewal date; and

9 (2) The credential holder was initially licensed within
10 the twenty-six months immediately preceding the renewal date.

11 Sec. 884. The department shall establish and collect fees
12 for credentialing under the Optometry Practice Act as provided in
13 sections 51 to 57 of this act.

14 Sec. 885. Section 71-1,135.02, Reissue Revised Statutes
15 of Nebraska, as amended by section 341, Legislative Bill 296, One
16 Hundredth Legislature, First Session, 2007, is amended to read:

17 71-1,135.02 (1)(a) (1) No optometrist licensed in
18 this state, except an optometrist who has been certified by
19 the department prior to April 30, 1987, or by another state
20 with substantially equivalent requirements for certification as
21 determined by the department upon recommendation of the Board of
22 Optometry board to use topical ocular pharmaceutical agents for
23 diagnostic purposes prior to April 30, 1987, shall use topical
24 ocular pharmaceutical agents for diagnostic purposes authorized
25 under subdivision (2) (1)(b) of section 71-1,133 877 of this act

1 unless such person ~~(i)~~ (a) submits to the board the required
2 fee and department evidence of satisfactory completion of a
3 pharmacology course at an institution accredited by a regional or
4 professional accrediting organization which is recognized by the
5 United States Department of Education, (b) and approved by the
6 ~~Division of Public Health of the Department of Health and Human~~
7 ~~Services,~~ ~~(ii)~~ passes an examination approved by the ~~department,~~
8 board, and ~~(iii)~~ (c) has been certified by the ~~department upon~~
9 Division of Public Health of the Department of Health and Human
10 Services, with the recommendation of the board, as qualified to use
11 topical ocular pharmaceutical agents for diagnostic purposes.

12 ~~(b)~~ (2) The ~~department~~ board may approve for
13 certification pursuant to subdivision ~~(1)(a)(i)~~ (1)(a) of this
14 section a pharmacology course if such course includes:

15 ~~(i)~~ (a) A study of ocular anesthetics, mydriatics,
16 cycloplegics, ocular toxicity of pharmaceutical agents, ocular
17 allergies of ocular agents, and pharmacologic effects of ocular
18 drug substances;

19 ~~(ii)~~ (b) The consideration of the mechanism of action
20 of anesthetics, cycloplegics, and mydriatics in human beings and
21 the uses of such substances in the diagnosis of occurring ocular
22 disorders;

23 ~~(iii)~~ (c) At least one hundred hours of classroom
24 education, clinical training, and examination; and

25 ~~(iv)~~ (d) The correlation of the utilization of

1 pharmaceutical agents and optical instrumentation and procedures.

2 ~~(c) The department~~ (3) The board may approve for
3 certification pursuant to subdivision ~~(1)(a)(ii)~~ (1)(b) of this
4 section an examination if such examination is:

5 ~~(i)~~ (a) Based upon the competencies taught in a
6 pharmacology course; and

7 ~~(ii)~~ (b) Administered by an institution accredited by
8 a regional or professional accrediting organization which is
9 recognized by the United States Department of Education, and
10 approved by the Division of Public Health of the Department of
11 Health and Human Services.

12 ~~(2)(a) No optometrist licensed in this state on or after~~
13 ~~April 30, 1987,~~ shall use topical ocular pharmaceutical agents for
14 therapeutic purposes authorized under subdivision ~~(3)~~ of section
15 ~~71-1,133~~ unless such person ~~(i)~~ submits to the board the required
16 fee and evidence of satisfactory completion of a minimum of one
17 hundred hours since January 1, 1984, of which forty hours shall be
18 classroom education and sixty hours shall be supervised clinical
19 training as it applies to optometry with particular emphasis
20 on the examination, diagnosis, and treatment of the eye, ocular
21 adnexa, and visual system offered by a school or college approved
22 by the department, ~~(ii)~~ passes an examination approved by the
23 department, ~~(iii)~~ has been certified by the department upon the
24 recommendation of the board to use topical ocular pharmaceutical
25 agents for therapeutic purposes, and ~~(iv)~~ has been certified by

1 the department upon the recommendation of the board to use topical
2 ocular pharmaceutical agents for diagnostic purposes.

3 ~~(b) The department may approve for certification pursuant~~
4 ~~to subdivision (2)(a)(i) of this section a therapeutic course~~
5 ~~or courses of instruction, from an institution accredited by~~
6 ~~a regional or professional accrediting organization which is~~
7 ~~recognized by the United States Department of Education, that~~
8 ~~have been completed after January 1, 1984. Such course or courses~~
9 ~~shall include, but not be limited to:~~

10 ~~(i) Review of general pharmacology and therapeutics;~~

11 ~~(ii) Review of ocular therapeutic pharmacology;~~

12 ~~(iii) Diagnosis and treatment of diseases of the eye,~~
13 ~~ocular adnexa, and visual system;~~

14 ~~(iv) Diagnosis of corneal disease and trauma including~~
15 ~~corneal foreign bodies;~~

16 ~~(v) Diagnosis and treatment of anterior segment eye~~
17 ~~diseases;~~

18 ~~(vi) Clinical procedures related to the diagnosis and~~
19 ~~treatment of the eye, ocular adnexa, and visual system;~~

20 ~~(vii) Ocular manifestations of systemic disease;~~

21 ~~(viii) Review of systemic disease syndromes;~~

22 ~~(ix) Ocular therapy including management of acute~~
23 ~~systemic emergencies; and~~

24 ~~(x) Consultation criteria in ocular disease and trauma.~~

25 ~~(3)(a) An optometrist who is licensed and certified to~~

1 use pharmaceutical agents for therapeutic purposes on July 15,
2 1998, who graduated from an accredited school of optometry prior
3 to January 1, 1996, shall complete the educational requirements
4 relative to the treatment of glaucoma, as determined by the board,
5 prior to January 1, 2000, and shall complete such educational
6 requirements prior to treating glaucoma. Failure to complete such
7 education prior to January 1, 2000, shall result in the revocation
8 of the licensee's certification to use pharmaceutical agents for
9 therapeutic purposes.

10 (b) An optometrist who applies for licensure on or
11 after July 15, 1998, who graduated from an accredited school
12 of optometry prior to January 1, 1996, shall complete the
13 educational requirements relative to the treatment of glaucoma,
14 as determined by the board, prior to being issued a license to
15 practice optometry.

16 (c) An optometrist who graduated from an accredited
17 school of optometry after January 1, 1996, shall be deemed to
18 have met the educational requirements for certification to use
19 pharmaceutical agents for therapeutic purposes which includes the
20 treatment and management of glaucoma.

21 Sec. 886. (1) No optometrist licensed in this state on
22 or after April 30, 1987, shall use topical ocular pharmaceutical
23 agents for therapeutic purposes authorized under subdivision (1)(c)
24 of section 877 of this act unless such person (a) submits to the
25 department evidence of satisfactory completion of a minimum of one

1 hundred hours since January 1, 1984, of which forty hours shall be
2 classroom education and sixty hours shall be supervised clinical
3 training as it applies to optometry with particular emphasis on the
4 examination, diagnosis, and treatment of the eye, ocular adnexa,
5 and visual system offered by a school or college approved by the
6 board, (b) passes an examination approved by the board, (c) has
7 been certified by the department, with the recommendation of the
8 board, to use topical ocular pharmaceutical agents for therapeutic
9 purposes, and (d) has been certified by the department, with the
10 recommendation of the board, to use topical ocular pharmaceutical
11 agents for diagnostic purposes.

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

19 (a) Review of general pharmacology and therapeutics;

20 (b) Review of ocular therapeutic pharmacology;

21 (c) Diagnosis and treatment of diseases of the eye,
22 ocular adnexa, and visual system;

23 (d) Diagnosis of corneal disease and trauma including
24 corneal foreign bodies;

25 (e) Diagnosis and treatment of anterior segment eye

1 diseases;

2 (f) Clinical procedures related to the diagnosis and
3 treatment of the eye, ocular adnexa, and visual system;

4 (g) Ocular manifestations of systemic disease;

5 (h) Review of systemic disease syndromes;

6 (i) Ocular therapy including management of acute systemic
7 emergencies; and

8 (j) Consultation criteria in ocular disease and trauma.

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

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

24 (3) An optometrist who graduated from an accredited
25 school of optometry after January 1, 1996, shall be deemed to

1 have met the educational requirements for certification to use
2 pharmaceutical agents for therapeutic purposes which includes the
3 treatment and management of glaucoma.

4 Sec. 888. Section 71-1,135.03, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,135.03~~ (1) No course or courses in pharmacology
7 shall be approved by the ~~department upon the recommendation of the~~
8 ~~Board of Optometry board~~ unless taught by an institution which is
9 accredited by a regional or professional accrediting organization
10 which is recognized by the United States Department of Education
11 and the transcript credit for the course or courses is certified to
12 the board by the institution.

13 (2) No course of instruction in the treatment of glaucoma
14 shall be approved by the ~~department upon the recommendation of the~~
15 board unless it is taught by an institution that is recognized by
16 the United States Department of Education or its successor and the
17 content for the course is certified to the board by the institution
18 as being comparable in content to a course of instruction in the
19 treatment of glaucoma required by other professional boards for
20 licensees or registrants allowed to treat glaucoma in the scope of
21 their professional practice.

22 Sec. 889. Section 71-1,136, Reissue Revised Statutes of
23 Nebraska, as amended by section 342, Legislative Bill 296, One
24 Hundredth Legislature, First Session, 2007, is amended to read:

25 ~~71-1,136~~ No school of optometry shall be approved by

1 the ~~Division of Public Health of the Department of Health and~~
2 ~~Human Services board~~ board as an accredited school unless the school is
3 accredited by a regional or professional accrediting organization
4 which is recognized by the United States Department of Education.

5 Sec. 890. Section 71-1,135.06, Reissue Revised Statutes
6 of Nebraska, is amended to read:

7 ~~71-1,135.06~~ (1) A licensed optometrist who administers or
8 prescribes pharmaceutical agents for examination or for treatment
9 shall provide the same standard of care to patients as that
10 provided by a physician licensed in this state to practice
11 medicine and surgery utilizing the same pharmaceutical agents
12 for examination or treatment.

13 (2) A licensed optometrist who administers or prescribes
14 pharmaceutical agents for the treatment of glaucoma shall provide
15 the same standard of care to patients as that provided by a
16 physician licensed in this state to practice medicine and surgery
17 utilizing the same pharmaceutical agents for the examination and
18 treatment of glaucoma.

19 Sec. 891. Section 71-1,135.07, Reissue Revised Statutes
20 of Nebraska, is amended to read:

21 ~~71-1,135.07~~ Any licensed optometrist may employ
22 optometric assistants. Such assistants, under the supervision of
23 a licensed optometrist, may perform such duties as are prescribed
24 in accordance with rules and regulations adopted and promulgated
25 by the department, with the ~~upon~~ recommendation of the ~~Board of~~

1 ~~Optometry~~ board.

2 Sec. 892. Section 71-1,136.04, Reissue Revised Statutes
3 of Nebraska, is amended to read:

4 ~~71-1,136.04~~ No agencies of the state or its subdivisions
5 administering relief, public assistance, public welfare assistance,
6 or other health service under the laws of this state, including
7 the public schools, shall in the performance of their duties,
8 interfere with any patient's freedom of choice in the selection of
9 practitioners licensed to perform examinations for refractions or
10 corrections within the field for which their respective licenses
11 entitle them to practice.

12 Sec. 893. Section 71-1,136.05, Reissue Revised Statutes
13 of Nebraska, is amended to read:

14 ~~71-1,136.05~~ There is hereby established the Nebraska
15 Optometry Education Assistance Contract Program for the purpose
16 of providing opportunities for citizens of this state desiring to
17 pursue study in the field of optometry at accredited schools and
18 colleges outside the state.

19 Sec. 894. Section 71-1,136.06, Reissue Revised Statutes
20 of Nebraska, is amended to read:

21 ~~71-1,136.06~~ The program established by section
22 ~~71-1,136.05~~ 893 of this act shall be administered by the Board of
23 Regents of the University of Nebraska. The ~~board~~ Board of Regents
24 shall adopt appropriate rules and regulations to carry out ~~the~~
25 ~~provisions of sections 71-1,136.05 to 71-1,136.08~~ sections 893 to

1 896 of this act and negotiate contract arrangements with accredited
2 schools and colleges of optometry, as provided in section ~~71-1,136,~~
3 889 of this act, for the admission and education of qualified
4 applicants who are citizens of Nebraska and who have demonstrated
5 their interest, aptitude, and readiness for study in the field of
6 optometry. The ~~board~~ Board of Regents shall require reports each
7 year from institutions receiving payments showing the progress and
8 suitability of each student being aided and containing such other
9 information as ~~the such board may deem~~ deems proper.

10 Sec. 895. Section 71-1,136.07, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 ~~71-1,136.07~~ The total number of students receiving annual
13 financial payments made under sections ~~71-1,136.05 to 71-1,136.08~~
14 893 to 896 of this act shall not exceed sixty students during
15 any school year. No more than fifteen of these students shall be
16 students enrolling in a college of optometry for their first year
17 of instruction.

18 Sec. 896. Section 71-1,136.08, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 ~~71-1,136.08~~ Financial assistance under sections
21 ~~71-1,136.05 to 71-1,136.08~~ 893 to 896 of this act shall be
22 continued not to exceed four years until the enrolled student has
23 received a degree in optometry. Contracts with schools and colleges
24 shall set forth terms and provisions for continuation of such
25 payments.

1 Sec. 897. Sections 897 to 993 of this act shall be known
2 and may be cited as the Pharmacy Practice Act.

3 Sec. 898. For purposes of the Pharmacy Practice Act and
4 elsewhere in the Uniform Credentialing Act, unless the context
5 otherwise requires, the definitions found in sections 899 to 944 of
6 this act apply.

7 Sec. 899. Section 71-1,147.20, Reissue Revised Statutes
8 of Nebraska, is amended to read:

9 ~~71-1,147.20~~ Accredited hospital or clinic shall mean
10 means a hospital or clinic accredited by the department upon
11 ~~recommendation of~~ approved by the board.

12 Sec. 900. Section 71-1,146, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~71-1,146~~ An accredited pharmacy program shall be means
15 one approved by the board upon the recommendation of the
16 accrediting committee of the Accreditation Council for Pharmacy
17 Education. It shall be a pharmacy program which maintains at least
18 a three-year course in pharmacy, consisting of not less than
19 thirty-two weeks of instruction each school year. Such pharmacy
20 program shall require as a condition to enrollment therein two
21 full years of college or university credit. The combined course
22 shall consist of five years of college or university credit each
23 year of which shall consist of not less than thirty-two weeks of
24 instruction.

25 Sec. 901. Section 71-1,147.21, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,147.21~~ Accredited school or college of pharmacy
3 ~~shall mean~~ means a school or college of pharmacy or a department
4 of pharmacy of a university approved by the board pursuant to ~~the~~
5 ~~provisions of~~ section ~~71-1,146-~~ 900 of this act.

6 Sec. 902. Administer means to directly apply a drug or
7 device by injection, inhalation, ingestion, or other means to the
8 body of a patient or research subject.

9 Sec. 903. Administration means the act of (1)
10 administering, (2) keeping a record of such activity, and (3)
11 observing, monitoring, reporting, and otherwise taking appropriate
12 action regarding desired effect, side effect, interaction, and
13 contraindication associated with administering the drug or device.

14 Sec. 904. Board means the Board of Pharmacy.

15 Sec. 905. Caregiver means any person acting as an agent
16 on behalf of a patient or any person aiding and assisting a
17 patient.

18 Sec. 906. Chart order means an order for a drug or device
19 issued by a practitioner for a patient who is in the hospital
20 where the chart is stored or for a patient receiving detoxification
21 treatment or maintenance treatment pursuant to section 28-412.
22 Chart order does not include a prescription.

23 Sec. 907. Compounding means the preparation of components
24 into a drug product (1) as the result of a practitioner's medical
25 order or initiative occurring in the course of practice based

1 upon the relationship between the practitioner, patient, and
2 pharmacist or (2) for the purpose of, or as an incident to,
3 research, teaching, or chemical analysis and not for sale or
4 dispensing. Compounding includes the preparation of drugs or
5 devices in anticipation of receiving medical orders based upon
6 routine, regularly observed prescribing patterns.

7 Sec. 908. Delegated dispensing means the practice of
8 pharmacy by which one or more pharmacists have jointly agreed, on
9 a voluntary basis, to work in conjunction with one or more persons
10 pursuant to sections 968 to 985 of this act under a protocol which
11 provides that such person may perform certain dispensing functions
12 authorized by the pharmacist or pharmacists under certain specified
13 conditions and limitations.

14 Sec. 909. Deliver or delivery means to actually,
15 constructively, or attempt to transfer a drug or device from one
16 person to another, whether or not for consideration.

17 Sec. 910. Device means an instrument, apparatus,
18 implement, machine, contrivance, implant, in vitro reagent, or
19 other similar or related article, including any component, part, or
20 accessory, which is prescribed by a practitioner and dispensed by a
21 pharmacist or other person authorized by law to do so.

22 Sec. 911. Dialysis drug or device distributor means a
23 manufacturer or wholesaler who provides dialysis drugs, solutions,
24 supplies, or devices, to persons with chronic kidney failure for
25 self-administration at the person's home or specified address,

1 pursuant to a prescription.

2 Sec. 912. Dialysis drug or device distributor worker
3 means a person working for a dialysis drug or device distributor
4 with a delegated dispensing permit who has completed the approved
5 training and has demonstrated proficiency to perform the task
6 or tasks of assembling, labeling, or delivering drugs or devices
7 pursuant to a prescription.

8 Sec. 913. (1) Dispense or dispensing means interpreting,
9 evaluating, and implementing a medical order, including preparing
10 and delivering a drug or device to a patient or caregiver
11 in a suitable container appropriately labeled for subsequent
12 administration to, or use by, a patient.

13 (2) Dispensing includes (a) dispensing incident to
14 practice, (b) dispensing pursuant to a delegated dispensing permit,
15 (c) dispensing pursuant to a medical order, and (d) any transfer of
16 a prescription drug or device to a patient or caregiver other than
17 by administering.

18 Sec. 914. Distribute means to deliver a drug or device,
19 other than by administering or dispensing.

20 Sec. 915. Drugs, medicines, and medicinal substances
21 means (1) articles recognized in the official United States
22 Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States,
23 the official National Formulary, or any supplement to any of them,
24 (2) articles intended for use in the diagnosis, cure, mitigation,
25 treatment, or prevention of diseases in humans or animals, (3)

1 articles, except food, intended to affect the structure or any
2 function of the body of a human or an animal, (4) articles intended
3 for use as a component of any articles specified in subdivision
4 (1), (2), or (3) of this section, except any device or its
5 components, parts, or accessories, and (5) prescription drugs or
6 devices.

7 Sec. 916. Electronic signature has the same meaning as in
8 section 86-621.

9 Sec. 917. Electronic transmission means transmission
10 of information in electronic form. Electronic transmission may
11 include computer-to-computer transmission or computer-to-facsimile
12 transmission.

13 Sec. 918. Facility means a health care facility as
14 defined in section 71-413.

15 Sec. 919. Facsimile means a copy generated by a
16 system that encodes a document or photograph into electrical
17 signals, transmits those signals over telecommunications lines,
18 and reconstructs the signals to create an exact duplicate of the
19 original document at the receiving end.

20 Sec. 920. Section 71-1,147.19, Reissue Revised Statutes
21 of Nebraska, is amended to read:

22 ~~71-1,147.19~~ Graduate pharmacy education or approved
23 program ~~shall mean~~ means a period of supervised educational
24 training by a graduate of an accredited school or college of
25 pharmacy, which training has been approved by ~~the department upon~~

1 ~~recommendation~~ of the board.

2 Sec. 921. Hospital has the same meaning as in section
3 71-419.

4 Sec. 922. Labeling means the process of preparing and
5 affixing a label to any drug container or device container,
6 exclusive of the labeling by a manufacturer, packer, or distributor
7 of a nonprescription drug or commercially packaged legend drug or
8 device. Any such label shall include all information required by
9 federal and state law or regulation.

10 Sec. 923. Medical gas distributor means a person who
11 dispenses medical gases to a patient or ultimate user but does not
12 include a person who manufactures medical gases or a person who
13 distributes, transfers, delivers, dispenses, or sells medical gases
14 to a person other than a patient or ultimate user.

15 Sec. 924. Medical order means a prescription, a
16 chart order, or an order for pharmaceutical care issued by a
17 practitioner.

18 Sec. 925. Nonprescription drugs means nonnarcotic
19 medicines or drugs which may be sold without a medical order and
20 which are prepackaged for use by the consumer and labeled in
21 accordance with the requirements of the laws and regulations of
22 this state and the federal government.

23 Sec. 926. Patient counseling means the verbal
24 communication by a pharmacist, pharmacist intern, or practitioner,
25 in a manner reflecting dignity and the right of the patient to

1 a reasonable degree of privacy, of information to the patient or
2 caregiver in order to improve therapeutic outcomes by maximizing
3 proper use of prescription drugs and devices and also includes the
4 duties set out in section 965 of this act.

5 Sec. 927. (1) Pharmaceutical care means the provision of
6 drug therapy for the purpose of achieving therapeutic outcomes that
7 improve a patient's quality of life. Such outcomes include (a) the
8 cure of disease, (b) the elimination or reduction of a patient's
9 symptomatology, (c) the arrest or slowing of a disease process, or
10 (d) the prevention of a disease or symptomatology.

11 (2) Pharmaceutical care includes the process through
12 which the pharmacist works in concert with the patient and his
13 or her caregiver, physician, or other professionals in designing,
14 implementing, and monitoring a therapeutic plan that will produce
15 specific therapeutic outcomes for the patient.

16 Sec. 928. Pharmacist means any person who is licensed by
17 the State of Nebraska to practice pharmacy.

18 Sec. 929. Pharmacist in charge means a pharmacist who
19 is designated on a pharmacy license or designated by a hospital
20 as being responsible for the practice of pharmacy in the pharmacy
21 for which a pharmacy license is issued and who works within the
22 physical confines of such pharmacy for a majority of the hours
23 per week that the pharmacy is open for business averaged over a
24 twelve-month period or thirty hours per week, whichever is less.

25 Sec. 930. Pharmacist intern means a person who meets the

1 requirements of section 950 of this act.

2 Sec. 931. Pharmacy has the same meaning as in section
3 71-425.

4 Sec. 932. Pharmacy technician means an individual at
5 least eighteen years of age who is a high school graduate or
6 officially recognized by the State Department of Education as
7 possessing the equivalent degree of education, who has never
8 been convicted of any drug-related misdemeanor or felony, and
9 who, under the written control procedures and guidelines of an
10 employing pharmacy, may perform those functions which do not
11 require professional judgment and which are subject to verification
12 to assist a pharmacist in the practice of pharmacy.

13 Sec. 933. (1) Practice of pharmacy means (a) the
14 interpretation, evaluation, and implementation of a medical order,
15 (b) the dispensing of drugs and devices, (c) drug product
16 selection, (d) the administration of drugs or devices, (e) drug
17 utilization review, (f) patient counseling, (g) the provision of
18 pharmaceutical care, and (h) the responsibility for compounding
19 and labeling of dispensed or repackaged drugs and devices, proper
20 and safe storage of drugs and devices, and maintenance of proper
21 records.

22 (2) The active practice of pharmacy means the performance
23 of the functions set out in this section by a pharmacist as his or
24 her principal or ordinary occupation.

25 Sec. 934. Practitioner means a certified registered nurse

1 anesthetist, a certified nurse midwife, a dentist, an optometrist,
2 a nurse practitioner, a physician assistant, a physician, a
3 podiatrist, or a veterinarian.

4 Sec. 935. Prescribe means to issue a medical order.

5 Sec. 936. Prescription means an order for a drug or
6 device issued by a practitioner for a specific patient, for
7 emergency use, or for use in immunizations. Prescription does not
8 include a chart order.

9 Sec. 937. Prescription drug or device or legend drug or
10 device means:

11 (1) A drug or device which is required under federal law
12 to be labeled with one of the following statements prior to being
13 dispensed or delivered:

14 (a) Caution: Federal law prohibits dispensing without
15 prescription;

16 (b) Caution: Federal law restricts this drug to use by or
17 on the order of a licensed veterinarian; or

18 (c) "Rx Only"; or

19 (2) A drug or device which is required by any applicable
20 federal or state law to be dispensed pursuant only to a
21 prescription or chart order or which is restricted to use by
22 practitioners only.

23 Sec. 938. Public health clinic means the department,
24 any county, city-county, or multicounty health department, or any
25 private not-for-profit family planning clinic licensed as a health

1 clinic as defined in section 71-416.

2 Sec. 939. Public health clinic worker means a person in
3 a public health clinic with a delegated dispensing permit who has
4 completed the approved training and has demonstrated proficiency
5 to perform the task of dispensing authorized refills of oral
6 contraceptives pursuant to a written prescription.

7 Sec. 940. Signature means the name, word, or mark of
8 a person written in his or her own hand with the intent to
9 authenticate a writing or other form of communication or a digital
10 signature which complies with section 86-611 or an electronic
11 signature.

12 Sec. 941. Supervision means the immediate personal
13 guidance and direction by the licensed pharmacist on duty in the
14 facility of the performance by a pharmacy technician of authorized
15 activities or functions subject to verification by such pharmacist,
16 except that when a pharmacy technician performs authorized
17 activities or functions to assist a pharmacist on duty in the
18 facility when the prescribed drugs or devices will be administered
19 by a licensed staff member or consultant or by a licensed physician
20 assistant to persons who are patients or residents of a facility,
21 the activities or functions of such pharmacy technician shall only
22 be subject to verification by a pharmacist on duty in the facility.

23 Sec. 942. Section 71-1,147.18, Reissue Revised Statutes
24 of Nebraska, is amended to read:

25 ~~71-1,147.18~~ Temporary educational permit shall mean means

1 a permit to practice pharmacy in a supervised educational program
2 approved by the board.

3 Sec. 943. Verification means the confirmation by a
4 supervising pharmacist of the accuracy and completeness of the
5 acts, tasks, or functions undertaken by a pharmacy technician to
6 assist the pharmacist in the practice of pharmacy.

7 Sec. 944. Written control procedures and guidelines means
8 the document prepared and signed by the pharmacist in charge
9 and approved by the board which specifies the manner in which
10 basic levels of competency of pharmacy technicians employed by
11 the pharmacy are determined, the manner in which supervision is
12 provided, the manner in which the functions of pharmacy technicians
13 are verified, the maximum ratio of pharmacy technicians to one
14 pharmacist used in the pharmacy, and guidelines governing the use
15 of pharmacy technicians and the functions which they may perform.

16 Sec. 945. The board shall be composed of five members,
17 including four actively practicing pharmacists, at least one of
18 whom practices within the confines of a hospital, and one public
19 member who is interested in the health of the people of Nebraska.

20 Sec. 946. Section 71-1,143, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 ~~71-1,143~~ As authorized by the Uniform Licensing Law,
23 Credentialing Act, the practice of pharmacy may be engaged in
24 by a pharmacist, a pharmacist intern, or a practitioner with a
25 pharmacy license. The practice of pharmacy shall not be construed

1 to include:

2 (1) Persons who sell, offer, or expose for sale
3 completely denatured alcohol or concentrated lye, insecticides, and
4 fungicides in original packages;

5 (2) Practitioners, other than veterinarians, certified
6 nurse midwives, certified registered nurse anesthetists, and nurse
7 practitioners, who dispense drugs or devices as an incident to
8 the practice of their profession, except that if such practitioner
9 regularly engages in dispensing such drugs or devices to his or
10 her patients for which such patients are charged, such practitioner
11 shall obtain a pharmacy license;

12 (3) Persons who sell, offer, or expose for sale
13 nonprescription drugs or proprietary medicines, the sale of which
14 is not in itself a violation of the Nebraska Liquor Control Act;

15 (4) Medical representatives, detail persons, or persons
16 known by some name of like import, but only to the extent of
17 permitting the relating of pharmaceutical information to health
18 care professionals;

19 (5) Licensed veterinarians practicing within the scope of
20 their profession;

21 (6) Certified nurse midwives, certified registered
22 nurse anesthetists, and nurse practitioners who dispense sample
23 medications which are provided by the manufacturer and are
24 dispensed at no charge to the patient;

25 (7) Hospitals engaged in the compounding and dispensing

1 of drugs and devices pursuant to chart orders for persons
2 registered as patients and within the confines of the hospital,
3 except that if a hospital engages in such compounding and
4 dispensing for persons not registered as patients and within
5 the confines of the hospital, such hospital shall obtain a pharmacy
6 license or delegated dispensing permit;

7 (8) Optometrists who prescribe or dispense eyeglasses or
8 contact lenses to their own patients;

9 (9) Registered nurses employed by a hospital who
10 administer pursuant to a chart order, or procure for such
11 purpose, single doses of drugs or devices from original drug or
12 device containers or properly labeled prepackaged drug or device
13 containers to persons registered as patients and within the
14 confines of the hospital;

15 (10) Persons employed by a facility where dispensed drugs
16 and devices are delivered from a pharmacy for pickup by a patient
17 or caregiver and no dispensing or storage of drugs or devices
18 occurs; and

19 (11) Persons who sell or purchase medical products,
20 compounds, vaccines, or serums used in the prevention or cure of
21 animal diseases and maintenance of animal health if such medical
22 products, compounds, vaccines, or serums are not sold or purchased
23 under a direct, specific, written medical order of a licensed
24 veterinarian.

25 Sec. 947. Section 71-1,143.01, Revised Statutes

1 Cumulative Supplement, 2006, is amended to read:

2 ~~71-1,143.01~~ (1) Every applicant for examination and
3 licensure as a pharmacist shall be ~~not less than twenty-one years~~
4 ~~of age, of good moral character and temperate habits,~~ a graduate
5 of an accredited pharmacy program, ~~recognized by the board,~~ except
6 that an applicant who is a graduate of a pharmacy program located
7 outside of the United States and which is not accredited shall be
8 deemed to have satisfied the requirement of being a graduate of an
9 accredited pharmacy program upon providing evidence satisfactory to
10 the department, with the recommendation of the board, of graduation
11 from such foreign pharmacy program and upon successfully passing an
12 equivalency examination approved by the board.

13 (2) Every applicant shall (a) file proof of sufficient
14 internship experience in pharmacy, under the supervision of
15 a licensed pharmacist, as may be required by the department,
16 with the recommendation of the board, which shall comply with
17 national requirements for internship as set forth by the National
18 Association of Boards of Pharmacy, (b) have satisfactorily
19 completed at least five years of college of which at least three
20 years shall have been in an accredited pharmacy program, ~~and~~
21 (c) pass an examination ~~satisfactory to~~ approved by the board,
22 and (d) present proof satisfactory to the department, with the
23 recommendation of the board, that he or she (i) has passed an
24 examination approved by the board within the last three years,
25 (ii) has been in the active practice of the profession of pharmacy

1 in another state, territory, or the District of Columbia for one
2 year within the three years immediately preceding the application
3 for licensure, (iii) has become board-certified in a specialty
4 recognized by the Board of Pharmaceutical Specialties within the
5 seven years immediately preceding the application for licensure,
6 or (iv) has completed continuing competency in pharmacy that is
7 approved by the Board of Pharmacy.

8 (3) Proof of the qualifications for licensure prescribed
9 in this section shall be made to the satisfaction of the
10 department, with the recommendation of the board, substantiated by
11 proper affidavits. In all cases the actual time of attendance in an
12 accredited pharmacy program shall be certified by the appropriate
13 school, college, or university authority by the issuance of
14 the degree granted to a graduate of such school, college,
15 or university. Service and experience in pharmacy under the
16 supervision of a licensed pharmacist, as required in this section,
17 shall be predominantly related to the practice of pharmacy and
18 shall include the keeping of records and the making of reports
19 required under state and federal statutes. ~~The Department of Health~~
20 ~~and Human Services Regulation and Licensure, upon~~ department, with
21 the recommendation of the board, shall adopt and promulgate rules
22 and regulations as may be required to establish standards for
23 internship which shall comply with national requirements to effect
24 reciprocity with other states which have similar requirements for
25 licensure. ~~The required fee for pharmacy internship shall accompany~~

1 ~~the application.~~

2 Sec. 948. Every applicant for licensure as a pharmacist
3 shall be required to attain a grade to be determined by the board
4 in an examination in pharmacy and a grade of seventy-five in an
5 examination in jurisprudence of pharmacy.

6 Sec. 949. Section 71-1,143.02, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 ~~71-1,143.02~~ Notwithstanding the provisions of sections
9 ~~71-103 and 71-1,143.01,~~ a A temporary pharmacist license may be
10 granted to persons meeting all of the qualifications for such a
11 pharmacist license except the requirement that they be citizens of
12 the United States. Such temporary license shall be issued for a
13 period of one year from the date of issuance and may be renewed
14 each year thereafter for four additional years, and if the person
15 so licensed has not become a citizen of the United States within
16 five years of the date such temporary license was issued, such
17 license shall terminate and the person so licensed shall have no
18 further right to practice pharmacy in this state. If a temporary
19 pharmacist licensee becomes a citizen of the United States while
20 a temporary pharmacist license is in force and provides evidence
21 thereof to the department, a pharmacist license may be issued in
22 place of such temporary license and no additional fee shall be
23 charged unless such temporary license had already expired, in which
24 case a renewal fee shall be charged. The applicant for a temporary
25 pharmacist license shall submit proof of his or her eligibility

1 and intent to become a citizen of the United States. The fees to
2 be paid and procedures for the denial, suspension, revocation, or
3 reinstatement of such temporary license shall be the same as for a
4 pharmacist license.

5 Sec. 950. Section 71-1,144, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-1,144~~ (1) A pharmacist intern shall be (a) a student
8 currently enrolled in an accredited pharmacy program, (b) a
9 graduate of an accredited pharmacy program serving his or her
10 internship, or (c) a graduate of a pharmacy program located
11 outside the United States which is not accredited and who has
12 successfully passed equivalency examinations approved by the board.
13 Intern registration based on enrollment in or graduation from an
14 accredited pharmacy program shall expire not later than fifteen
15 months after the date of graduation or at the time of professional
16 licensure, whichever comes first. Intern registration based on
17 graduation from a pharmacy program located outside of the United
18 States which is not accredited shall expire not later than fifteen
19 months after the date of issuance of the registration or at the
20 time of professional licensure, whichever comes first.

21 (2) A pharmacist intern may compound and dispense drugs
22 or devices and fill prescriptions only in the presence of and under
23 the immediate personal supervision of a licensed pharmacist. Such
24 licensed pharmacist shall either be (a) the person to whom the
25 pharmacy license is issued or a person in the actual employ of

1 the pharmacy licensee or (b) the delegating pharmacist designated
2 in a delegated dispensing agreement by a hospital with a delegated
3 dispensing permit.

4 Sec. 951. Section 71-1,147.22, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,147.22~~ The department, ~~upon~~ with the recommendation
7 of the board, shall have authority to issue temporary educational
8 permits to qualified applicants in accordance with the ~~provisions~~
9 ~~of sections 71-1,147.17 to 71-1,147.32.~~ Pharmacy Practice Act.

10 Sec. 952. Section 71-1,147.23, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 ~~71-1,147.23~~ The holder of a temporary educational permit
13 shall be entitled to practice pharmacy while serving in a
14 supervised educational program or in an approved graduate pharmacy
15 education program conducted by an accredited hospital or clinic
16 in the State of Nebraska or by an accredited school or college
17 of pharmacy in the State of Nebraska. The holder of a temporary
18 educational permit shall not be qualified to engage in the practice
19 of pharmacy outside of the assigned training program or outside the
20 confines of the accredited hospital or clinic or the accredited
21 school or college.

22 Sec. 953. Section 71-1,147.24, Reissue Revised Statutes
23 of Nebraska, is amended to read:

24 ~~71-1,147.24~~ Before any temporary educational permit
25 is issued pursuant to ~~sections 71-1,147.17 to 71-1,147.32,~~ the

1 Pharmacy Practice Act, the department, ~~upon with the~~ recommendation
2 of the board, shall determine that the applicant for such permit ~~is~~
3 ~~of good moral character and that such applicant has otherwise~~ has
4 met all of the requirements of ~~sections 71-1,147.17 to 71-1,147.32~~
5 the act relating to issuing any such permit.

6 Sec. 954. Section 71-1,147.25, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 ~~71-1,147.25~~ Except as otherwise provided by law, the
9 holder of any temporary educational permit shall be subject to all
10 of the rules and regulations prescribed for pharmacists regularly
11 licensed in the State of Nebraska and such other rules and
12 regulations as may be adopted by the department, ~~upon with the~~
13 recommendation of the board, with respect to such permits in order
14 to carry out the purposes of ~~sections 71-1,147.17 to 71-1,147.32.~~
15 the Pharmacy Practice Act.

16 Sec. 955. Section 71-1,147.26, Reissue Revised Statutes
17 of Nebraska, is amended to read:

18 ~~71-1,147.26~~ The duration of any temporary educational
19 permit issued pursuant to ~~sections 71-1,147.17 to 71-1,147.32~~ the
20 Pharmacy Practice Act shall be determined by the ~~Department of~~
21 ~~Health and Human Services Regulation and Licensure~~ department but
22 in no case shall it be in excess of one year. The permit may be
23 renewed from time to time at the discretion of the ~~Department of~~
24 ~~Health and Human Services Regulation and Licensure~~ department but
25 in no case shall it be renewed for more than five one-year periods.

1 Sec. 956. Section 71-1,147.27, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 ~~71-1,147.27~~ The department, with the recommendation of
4 the board, may issue to all qualified graduates of accredited
5 colleges of pharmacy, who are eligible for the examination
6 provided for in section ~~71-1,143.01,~~ 947 of this act, and who
7 make application for such examination, a temporary educational
8 permit, ~~without charge.~~ Such permit shall be issued only for
9 the duration of the time between the date of the examination and
10 the date of licensure granted as a result of such examination.
11 ~~Any person issued a temporary educational permit, without charge,~~
12 ~~shall meet all requirements provided for in sections 71-1,147.17~~
13 ~~to 71-1,147.32, except payment of the required fee, and such~~
14 ~~exemption is only for the period of time between examination date~~
15 ~~and licensing date and for only those individuals who take the~~
16 ~~examination as provided in section 71-1,143.01.~~

17 Sec. 957. Section 71-1,147.28, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 ~~71-1,147.28~~ Before granting any temporary educational
20 permit, the Department of Health and Human Services Regulation
21 and Licensure department shall ascertain by evidence satisfactory
22 to the department, with the recommendation of the board, that an
23 accredited hospital or clinic or an accredited school or college
24 of pharmacy in the State of Nebraska has requested the issuance
25 of a temporary educational permit for an applicant to serve as a

1 graduate student in its approved program for the period involved.
2 Any application for the issuance of such permit shall be signed
3 by the applicant requesting that such permit be issued to him or
4 her and shall designate the specified approved graduate pharmacy
5 educational program with respect to which such permit shall apply.

6 Sec. 958. Section 71-1,147.29, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 ~~71-1,147.29~~ The recommendation of the board to the
9 department for the issuance of any temporary educational permits
10 shall be made at regular meetings of the board, but the chairperson
11 or one other member of the board, as specifically selected by the
12 members of the board, and its executive secretary, jointly shall
13 have the power to recommend to the department the issuance of such
14 permits between the meetings of the board. ~~7~~ ~~which permits shall~~
15 ~~be subject to approval or disapproval at the next meeting of the~~
16 ~~board.~~

17 Sec. 959. Section 71-1,147.30, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 ~~71-1,147.30~~ The recipient of a temporary educational
20 permit shall pay the required fee.

21 Sec. 960. Section 71-1,147.31, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,147.31~~ Any temporary educational permit granted
24 under the authority of ~~sections 71-1,147.17 to 71-1,147.32~~ the
25 Pharmacy Practice Act may be suspended, limited, or revoked by

1 the department, ~~upon~~ with the recommendation of the board, at any
2 time upon a finding that the reasons for issuing such permit no
3 longer exist or that the person to whom such permit has been
4 issued is no longer qualified to hold such permit or for any reason
5 for which a pharmacist license could be suspended, limited, or
6 revoked. A hearing on the suspension, limitation, or revocation of
7 the temporary educational permit by the department shall be held
8 in the same manner as for the denial of a pharmacist license. The
9 final order of the ~~Director of Regulation and Licensure~~ director
10 may be appealed, and the appeal shall be in accordance with the
11 Administrative Procedure Act.

12 Sec. 961. Section 71-1,147.32, Reissue Revised Statutes
13 of Nebraska, is amended to read:

14 ~~71-1,147.32~~ The holder of a temporary educational permit
15 shall not be entitled to a pharmacist license in the State
16 of Nebraska unless and until such individual meets all of the
17 requirements of law for issuing such pharmacist license.

18 Sec. 962. Section 71-1,143.03, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 ~~71-1,143.03~~ Unless specifically limited by the board or
21 the department, a pharmacist may (1) engage in the practice of
22 pharmacy, (2) use the abbreviation R.P. or the title licensed
23 pharmacist, (3) enter into delegated dispensing agreements, and
24 (4) possess, without dispensing, prescription drugs and devices,
25 including controlled substances, for purposes of administration.

1 Sec. 963. Section 71-1,147, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-1,147~~ (1) Except as provided for pharmacy technicians
4 in section ~~71-1,147.33~~ 986 of this act and for individuals
5 authorized to dispense under a delegated dispensing permit, no
6 person other than a licensed pharmacist, a pharmacist intern, or a
7 practitioner with a pharmacy license shall provide pharmaceutical
8 care, compound and dispense drugs or devices, or dispense pursuant
9 to a medical order. Notwithstanding any other provision of law
10 to the contrary, a pharmacist or pharmacist intern may dispense
11 drugs or devices pursuant to a medical order of a practitioner
12 authorized to prescribe in another state if such practitioner could
13 be authorized to prescribe such drugs or devices in this state.

14 (2) Except as provided for pharmacy technicians in
15 section ~~71-1,147.33~~ 986 of this act and for individuals authorized
16 to dispense under a delegated dispensing permit, it shall be
17 unlawful for any person to permit or direct a person who is not
18 a pharmacist intern, a licensed pharmacist, or a practitioner with
19 a pharmacy license to provide pharmaceutical care, compound and
20 dispense drugs or devices, or dispense pursuant 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
24 for any purpose or in any manner contrary to the professional
25 judgment of the pharmacist. Violation of this subsection by a

1 health care professional regulated pursuant to the provisions of
2 ~~Chapter 71~~ Uniform Credentialing Act shall be considered an act
3 of unprofessional conduct. A violation of this subsection by a
4 facility shall be prima facie evidence in an action against the
5 license of the facility pursuant to the Health Care Facility
6 Licensure Act. Any pharmacist subjected to coercion or attempted
7 coercion pursuant to this subsection has a cause of action against
8 the person and may recover his or her damages and reasonable
9 attorney's fees.

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

12 Sec. 964. Section 71-1,147.36, Reissue Revised Statutes
13 of Nebraska, is amended to read:

14 ~~71-1,147.36~~ (1) Information with regard to a patient
15 maintained by a pharmacist pursuant to ~~sections 71-1,142 to~~
16 ~~71-1,151~~ the Pharmacy Practice Act shall be privileged and
17 confidential and may be released only to (a) the patient or
18 the caregiver of the patient or others authorized by the patient
19 or his or her legal representative, (b) a physician treating
20 the patient, (c) other physicians or pharmacists when, in the
21 professional judgment of the pharmacist, such release is necessary
22 to protect the patient's health or well-being, or (d) other
23 persons or governmental agencies authorized by law to receive such
24 information.

25 (2) Nothing in this section shall prohibit the release

1 of confidential information to researchers conducting biomedical,
2 pharmaco-epidemiologic, or pharmaco-economic research pursuant to
3 health research approved by an institutional review board which is
4 established in accordance with 21 C.F.R. parts 50 and 56 or 45
5 C.F.R. part 46, as such parts existed on ~~May 17, 2001~~, April 1,
6 2006.

7 Sec. 965. Section 71-1,147.35, Revised Statutes
8 Cumulative Supplement, 2006, is amended to read:

9 ~~71-1,147.35~~ (1) (a) Prior to the dispensing or the
10 delivery of a drug or device pursuant to a medical order
11 to a patient or caregiver, a pharmacist shall in all care
12 settings conduct a prospective drug utilization review. Such
13 prospective drug utilization review shall involve monitoring the
14 patient-specific medical history described in subdivision (b) of
15 this subsection and available to the pharmacist at the practice
16 site for:

- 17 (i) Therapeutic duplication;
18 (ii) Drug-disease contraindications;
19 (iii) Drug-drug interactions;
20 (iv) Incorrect drug dosage or duration of drug treatment;
21 (v) Drug-allergy interactions; and
22 (vi) Clinical abuse or misuse.

23 (b) A pharmacist conducting a prospective drug
24 utilization review shall ensure that a reasonable effort is made
25 to obtain from the patient, his or her caregiver, or his or her

1 practitioner and to record and maintain records of the following
2 information to facilitate such review:

3 (i) The name, address, telephone number, date of birth,
4 and gender of the patient;

5 (ii) The patient's history of significant disease, known
6 allergies, and drug reactions and a comprehensive list of relevant
7 drugs and devices used by the patient; and

8 (iii) Any comments of the pharmacist relevant to the
9 patient's drug therapy.

10 (c) The assessment of data on drug use in any prospective
11 drug utilization review shall be based on predetermined standards,
12 approved by ~~the department upon the recommendation of~~ the board.

13 (2) (a) Prior to the dispensing or delivery of a drug or
14 device pursuant to a prescription, the pharmacist shall ensure that
15 a verbal offer to counsel the patient or caregiver is made. The
16 counseling of the patient or caregiver by the pharmacist shall be
17 on elements which, in the exercise of the pharmacist's professional
18 judgment, the pharmacist deems significant for the patient. Such
19 elements may include, but need not be limited to, the following:

20 (i) The name and description of the prescribed drug or
21 device;

22 (ii) The route of administration, dosage form, dose, and
23 duration of therapy;

24 (iii) Special directions and precautions for preparation,
25 administration, and use by the patient or caregiver;

1 (iv) Common side effects, adverse effects or
2 interactions, and therapeutic contraindications that may be
3 encountered, including avoidance, and the action required if such
4 effects, interactions, or contraindications occur;

5 (v) Techniques for self-monitoring drug therapy;

6 (vi) Proper storage;

7 (vii) Prescription refill information; and

8 (viii) Action to be taken in the event of a missed dose.

9 (b) The patient counseling provided for in this
10 subsection shall be provided in person whenever practical or by the
11 utilization of telephone service which is available at no cost to
12 the patient or caregiver.

13 (c) Patient counseling shall be appropriate to the
14 individual patient and shall be provided to the patient or
15 caregiver.

16 (d) Written information may be provided to the patient
17 or caregiver to supplement the patient counseling provided for in
18 this subsection but shall not be used as a substitute for such
19 patient counseling. If written information is provided, it shall
20 also include all information found on the prescription label.

21 (e) This subsection shall not be construed to require a
22 pharmacist to provide patient counseling when:

23 (i) The patient or caregiver refuses patient counseling;

24 (ii) The pharmacist, in his or her professional judgment,
25 determines that patient counseling may be detrimental to the

1 patient's care or to the relationship between the patient and his
2 or her practitioner;

3 (iii) The patient is a patient or resident of a health
4 care facility or health care service licensed under the Health Care
5 Facility Licensure Act to whom prescription drugs or devices are
6 administered by a licensed or certified staff member or consultant
7 or a certified physician's assistant; or

8 (iv) The practitioner authorized to prescribe drugs or
9 devices specifies that there shall be no patient counseling unless
10 he or she is contacted prior to such patient counseling. The
11 prescribing practitioner shall specify such prohibition in an oral
12 prescription or in writing on the face of a written prescription,
13 including any prescription which is received by facsimile or
14 electronic transmission. The pharmacist shall note "Contact Before
15 Counseling" on the face of the prescription if such is communicated
16 orally by the prescribing practitioner.

17 Sec. 966. Section 71-1,146.01, Revised Statutes
18 Cumulative Supplement, 2006, is amended to read:

19 ~~71-1,146.01~~ (1) All medical orders shall be valid for the
20 period stated in the medical order, except that (a) if the medical
21 order is for a controlled substance listed in section 28-405, such
22 period shall not exceed six months from the date of issuance at
23 which time the medical order shall expire and (b) if the medical
24 order is for a drug or device which is not a controlled substance
25 listed in section 28-405 or is an order issued by a practitioner

1 for pharmaceutical care, such period shall not exceed twelve months
2 from the date of issuance at which time the medical order shall
3 expire.

4 (2) Prescription drugs or devices may only be dispensed
5 by a pharmacist or pharmacist intern pursuant to a medical order,
6 by an individual dispensing pursuant to a delegated dispensing
7 permit, or as otherwise provided in section ~~71-1,143~~ 946 of this
8 act. Notwithstanding any other provision of law to the contrary,
9 a pharmacist or a pharmacist intern may dispense drugs or devices
10 pursuant to a medical order or an individual dispensing pursuant
11 to a delegated dispensing permit may dispense drugs or devices
12 pursuant to a medical order. ~~Sections 71-1,142 to 71-1,151~~ The
13 Pharmacy Practice Act shall not be construed to require any
14 pharmacist or pharmacist intern to dispense any drug or device
15 pursuant to any medical order. A pharmacist or pharmacist intern
16 shall retain the professional right to refuse to dispense.

17 (3) Except as otherwise provided in section 28-414, a
18 practitioner or the practitioner's agent may transmit a medical
19 order to a pharmacist or pharmacist intern by the following
20 means: (a) In writing, (b) orally, (c) by facsimile or electronic
21 transmission of a medical order signed by the practitioner, or (d)
22 by facsimile or electronic transmission of a medical order which
23 is not signed by the practitioner. Such order shall be treated the
24 same as an oral medical order.

25 (4) Except as otherwise provided in section 28-414, any

1 medical order transmitted by facsimile or electronic transmission
2 shall (a) be transmitted by the practitioner or the practitioner's
3 agent directly to a pharmacist or pharmacist intern in a licensed
4 pharmacy of the patient's choice. No intervening person shall
5 be permitted access to the medical order to alter such order
6 or the licensed pharmacy chosen by the patient. Such medical
7 order may be transmitted through a third-party intermediary
8 who shall facilitate the transmission of the order from the
9 practitioner or practitioner's agent to the pharmacy, (b) identify
10 the transmitter's telephone number or other suitable information
11 necessary to contact the transmitter for written or oral
12 confirmation, the time and date of the transmission, the identity
13 of the pharmacy intended to receive the transmission, and other
14 information as required by law, and (c) serve as the original
15 medical order if all other requirements of this subsection are
16 satisfied. Medical orders transmitted by electronic transmission
17 shall be signed by the practitioner either with an electronic
18 signature or a digital signature.

19 (5) The pharmacist shall exercise professional judgment
20 regarding the accuracy, validity, and authenticity of any medical
21 order transmitted by facsimile or electronic transmission.

22 Sec. 967. Section 71-1,146.02, Reissue Revised Statutes
23 of Nebraska, is amended to read:

24 ~~71-1,146.02~~ Original prescription information for any
25 controlled substances listed in Schedule III, IV, or V of section

1 28-405 and other prescription drugs or devices not listed in
2 section 28-405 may be transferred between pharmacies for the
3 purpose of refill dispensing on a one-time basis, except that
4 pharmacies electronically accessing a real-time, on-line data base
5 may transfer up to the maximum refills permitted by law and as
6 authorized by the prescribing practitioner on the face of the
7 prescription. Transfers are subject to the following:

8 (1) The transfer is communicated directly between two
9 pharmacists or pharmacist interns except when the pharmacies can
10 use a real-time, on-line data base;

11 (2) The transferring pharmacist or pharmacist intern
12 indicates void on the record of the prescription except when a
13 single refill is transferred for emergency or traveling purposes;

14 (3) The transferring pharmacist or pharmacist intern
15 indicates on the record of the prescription the name, the address,
16 and, if a controlled substance, the Drug Enforcement Administration
17 number of the pharmacy to which the information was transferred,
18 the name of the pharmacist or pharmacist intern receiving the
19 information, the date of transfer, and the name of the transferring
20 pharmacist or pharmacist intern;

21 (4) The receiving pharmacist or pharmacist intern
22 indicates on the record of the transferred prescription that the
23 prescription is transferred;

24 (5) The transferred prescription includes the following
25 information:

- 1 (a) The date of issuance of the original prescription;
- 2 (b) The original number of refills authorized;
- 3 (c) The date of original dispensing;
- 4 (d) The number of valid refills remaining;
- 5 (e) The date and location of last refill; and
- 6 (f) The name, the address, and, if a controlled
- 7 substance, the Drug Enforcement Administration number of the
- 8 pharmacy from which the transfer was made, the name of the
- 9 pharmacist or pharmacist intern transferring the information, the
- 10 original prescription number, and the date of transfer; and
- 11 (6) Both the original and transferred prescriptions must
- 12 be maintained by the transferring and receiving pharmacy for a
- 13 period of five years from the date of transfer.

14 Sec. 968. Section 71-1,147.62, Reissue Revised Statutes

15 of Nebraska, is amended to read:

16 ~~71-1,147.62~~ A pharmacist may delegate certain specified

17 dispensing tasks and functions under specified conditions and

18 limitations to another person by entering into a delegated

19 dispensing agreement which serves as the basis for a delegated

20 dispensing permit. A delegated dispensing agreement shall include

21 the address of the site where the dispensing will occur, the

22 name and license number of each pharmacist who will assume

23 the responsibilities of the delegating pharmacist, the name and

24 signature of any individual who will be dispensing pursuant to such

25 agreement, the manner in which inspections must be conducted and

1 documented by the delegating pharmacist, and any other information
2 required by the board. A delegated dispensing agreement shall not
3 become effective until a delegated dispensing permit based upon
4 such agreement is issued by the department, with the recommendation
5 of the board, pursuant to section ~~71-1,147.63~~ 969 of this act.

6 Sec. 969. Section 71-1,147.63, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 ~~71-1,147.63~~ (1) Any person who has entered into a
9 delegated dispensing agreement pursuant to section ~~71-1,147.62~~ 968
10 of this act may apply to the department for a delegated dispensing
11 permit. An applicant shall apply at least thirty days prior to the
12 anticipated date for commencing delegated dispensing activities.
13 Each applicant shall (a) file an application as prescribed by the
14 department and a copy of the delegated dispensing agreement and
15 (b) pay any fees required by the department. A hospital applying
16 for a delegated dispensing permit shall not be required to pay an
17 application fee if it has a pharmacy license under the Health Care
18 Facility Licensure Act.

19 (2) The department shall issue or renew a delegated
20 dispensing permit to an applicant if the department, with the
21 recommendation of the board, determines that:

22 (a) The application and delegated dispensing agreement
23 comply with ~~sections 71-1,147.42 to 71-1,147.64~~ the Pharmacy
24 Practice Act;

25 (b) The public health and welfare is protected and public

1 convenience and necessity is promoted by the issuance of such
2 permit. If the applicant is a hospital, public health clinic,
3 dialysis drug or device distributor, or medical gas distributor,
4 the department shall find that the public health and welfare is
5 protected and public convenience and necessity is promoted. For any
6 other applicant, the department may, in its discretion, require the
7 submission of documentation to demonstrate that the public health
8 and welfare is protected and public convenience and necessity is
9 promoted by the issuance of the delegated dispensing permit; and

10 (c) The applicant has complied with any inspection
11 requirements pursuant to section ~~71-1,147.64.~~ 970 of this act.

12 (3) In addition to the requirements of subsection (2)
13 of this section, a public health clinic (a) shall apply for a
14 separate delegated dispensing permit for each clinic maintained on
15 separate premises even though such clinic is operated under the
16 same management as another clinic and (b) shall not apply for
17 a separate delegated dispensing permit to operate an ancillary
18 facility. For purposes of this subsection, ancillary facility means
19 a delegated dispensing site which offers intermittent services,
20 which is staffed by personnel from a public health clinic for which
21 a delegated dispensing permit has been issued, and at which no
22 legend drugs or devices are stored.

23 (4) A delegated dispensing permit shall not be
24 transferable. Such permit shall expire annually on July 1 unless
25 renewed by the department. The department, with the recommendation

1 of the board, may adopt and promulgate rules and regulations to
2 reinstate expired permits upon payment of a late fee.

3 Sec. 970. Section 71-1,147.64, Reissue Revised Statutes
4 of Nebraska, is amended to read:

5 ~~71-1,147.64~~ (1) Before a delegated dispensing permit
6 may be issued by the department, with the recommendation of the
7 board, a pharmacy inspector of the board shall conduct an onsite
8 inspection of the delegated dispensing site. A hospital applying
9 for a delegated dispensing permit shall not be subject to an
10 initial inspection or inspection fees pursuant to this subsection
11 if the delegated dispensing site was inspected by the department
12 pursuant to licensure under the Health Care Facility Licensure Act.

13 (2) Each permittee shall have the delegated dispensing
14 site inspected at least once on an annual basis. Such inspection
15 may be conducted by self-inspection or other compliance assurance
16 modalities, when approved by the board, as authorized in the rules
17 and regulations of the department. A hospital with a delegated
18 dispensing permit shall not be subject to annual inspections or
19 inspection fees pursuant to this subsection if the delegated
20 dispensing site was inspected by the department pursuant to
21 licensure under the Health Care Facility Licensure Act.

22 (3) Any applicant or permittee who fails to meet the
23 requirements of the board or department to dispense drugs or
24 devices pursuant to a delegated dispensing permit shall, prior to
25 dispensing (a) have the delegated dispensing site reinspected by a

1 pharmacy inspector of the board and (b) pay any reinspection fees.

2 (4) The department, with the recommendation of the board,
3 shall set inspection fees by rule and regulation not to exceed
4 the fees established for pharmacy inspections required to obtain
5 a pharmacy license under the Health Care Facility Licensure Act.
6 The department shall remit inspection fees to the State Treasurer
7 for credit to the Professional and Occupational Credentialing Cash
8 Fund.

9 Sec. 971. Section 71-1,147.42, Reissue Revised Statutes
10 of Nebraska, is amended to read:

11 ~~71-1,147.42~~ If a complaint is filed against a delegated
12 dispensing permittee or any staff member, volunteer, or consultant
13 in association with work performed under a delegated dispensing
14 permit and if the complaint is found to be valid, the cost of
15 investigating the complaint and any followup inspections shall
16 be calculated by the board based upon the actual costs incurred
17 and the cost shall be borne by the permittee being investigated.
18 All costs collected by the department shall be remitted to the
19 State Treasurer for credit to the Professional and Occupational
20 Credentialing Cash Fund. If the complaint is not found to be valid,
21 the cost of the investigation shall be paid from the fund.

22 Sec. 972. Section 71-1,147.43, Reissue Revised Statutes
23 of Nebraska, is amended to read:

24 ~~71-1,147.43~~ The department, with the recommendation of
25 the board, may deny an application for a delegated dispensing

1 permit, revoke, limit, or suspend a delegated dispensing permit, or
2 refuse renewal of a delegated dispensing permit for a violation of
3 section ~~71-147 or 71-148~~ 78 or 79 of this act or for any violation
4 of ~~sections 71-1,142 to 71-1,151~~ the Pharmacy Practice Act and any
5 rules and regulations adopted and promulgated by the department,
6 with the recommendation of the board, pursuant to ~~such sections-~~
7 the act.

8 Sec. 973. Section 71-1,147.44, Reissue Revised Statutes
9 of Nebraska, is amended to read:

10 ~~71-1,147.44~~ (1) If the department, with the
11 recommendation of the board, determines to deny an application for
12 a delegated dispensing permit or to revoke, limit, suspend, or
13 refuse renewal of a delegated dispensing permit, the department
14 shall send to the applicant or permittee, by certified mail, a
15 notice setting forth the particular reasons for the determination.
16 The denial, limitation, suspension, revocation, or refusal of
17 renewal shall become final thirty days after the mailing of the
18 notice unless the applicant or permittee, within such thirty-day
19 period, requests a hearing in writing. The applicant or permittee
20 shall be given a fair hearing before the department and may present
21 such evidence as may be proper. On the basis of such evidence,
22 the determination involved shall be affirmed or set aside, and
23 a copy of such decision setting forth the finding of facts and
24 the particular reasons upon which it is based shall be sent by
25 certified mail to the applicant or permittee. The decision shall

1 become final thirty days after a copy of such decision is mailed
2 unless the applicant or permittee within such thirty-day period
3 appeals the decision pursuant to section ~~71-1,147.46.~~ 975 of this
4 act.

5 (2) The procedure governing hearings authorized by this
6 section shall be in accordance with rules and regulations adopted
7 and promulgated by the department. A full and complete record shall
8 be kept of all proceedings. Witnesses may be subpoenaed by either
9 party and shall be allowed a fee at a rate prescribed by the
10 rules and regulations adopted and promulgated by the department.
11 The proceedings shall be summary in nature and triable as equity
12 actions. Affidavits may be received in evidence in the discretion
13 of the ~~Director of Regulation and Licensure.~~ director. The
14 department shall have the power to administer oaths, to subpoena
15 witnesses and compel their attendance, and to issue subpoenas duces
16 tecum and require the production of books, accounts, and documents
17 in the same manner and to the same extent as the district courts of
18 the state. Depositions may be used by either party.

19 Sec. 974. Section 71-1,147.45, Reissue Revised Statutes
20 of Nebraska, as amended by section 351, Legislative Bill 296, One
21 Hundredth Legislature, First Session, 2007, is amended to read:

22 ~~71-1,147.45~~ (1) Upon the completion of any hearing
23 pursuant to section ~~71-1,147.44,~~ 973 of this act, the director
24 shall have the authority through entry of an order to exercise in
25 his or her discretion any or all of the following powers:

- 1 (a) Issue a censure against the permittee;
- 2 (b) Place the permittee on probation;
- 3 (c) Place a limitation or limitations on the permit and
4 upon the right of the permittee to dispense drugs or devices to the
5 extent, scope, or type of operation, for such time, and under such
6 conditions as the director finds necessary and proper. The director
7 shall consult with the board in all instances prior to issuing an
8 order of limitation;
- 9 (d) Impose a civil penalty not to exceed twenty thousand
10 dollars. The amount of the civil penalty, if any, shall be based
11 on the severity of the violation. If any violation is a repeated
12 or continuing violation, each violation or each day a violation
13 continues shall constitute a separate violation for the purpose of
14 computing the applicable civil penalty, if any;
- 15 (e) Enter an order of suspension of the permit;
- 16 (f) Enter an order of revocation of the permit; and
- 17 (g) Dismiss the action.
- 18 (2) The permittee shall not dispense drugs or devices
19 after a permit is revoked or during the time for which the permit
20 is suspended. If a permit is suspended, the suspension shall be for
21 a definite period of time to be fixed by the director. The permit
22 shall be automatically reinstated upon the expiration of such
23 period if the current renewal fees have been paid. If the permit
24 is revoked, the revocation shall be permanent, except that at any
25 time after the expiration of two years, application may be made

1 for reinstatement by any permittee whose permit has been revoked
2 as provided in section 48 of this act. ~~The application shall be~~
3 ~~addressed to the director but may not be received or filed unless~~
4 ~~accompanied by a written recommendation of reinstatement by the~~
5 ~~board. The department may adopt and promulgate the necessary rules~~
6 ~~and regulations concerning notice and hearing of such application.~~

7 (3) Any civil penalty assessed and unpaid under this
8 section shall constitute a debt to the State of Nebraska which
9 may be collected in the manner of a lien foreclosure or sued for
10 and recovered in a proper form of action in the name of the state
11 in the district court of the county in which the violator resides
12 or owns property. The department shall remit any collected civil
13 penalty to the State Treasurer, within thirty days after receipt,
14 for distribution in accordance with Article VII, section 5, of the
15 Constitution of Nebraska.

16 Sec. 975. Section 71-1,147.46, Reissue Revised Statutes
17 of Nebraska, is amended to read:

18 ~~71-1,147.46~~ (1) A petition for the revocation or
19 suspension of a delegated dispensing permit may be filed by the
20 Attorney General or by the county attorney in the county in which
21 the permittee resides or is dispensing pursuant to a delegated
22 dispensing permit. The petition shall be filed with the board and
23 shall be entitled In the Matter of the Revocation (or suspension)
24 of the Permit of (name of permittee) to dispense drugs and devices.
25 It shall state the charges against the permittee with reasonable

1 definiteness. Upon approval of such petition by the board, it shall
2 be forwarded to the department which shall make an order fixing a
3 time and place for hearing thereon, which shall not be less than
4 ten days nor more than thirty days thereafter. Notice of the filing
5 of such petition and of the time and place of hearing shall be
6 served upon the permittee at least ten days before such hearing.

7 (2) The notice of charges may be served by any sheriff or
8 constable or by any person especially appointed by the department.
9 The order of revocation or suspension of a permit shall be entered
10 on record and the name of such permittee stricken from the roster
11 of permittees, and the permittee shall not engage in the dispensing
12 of drugs and devices after revocation of the permit or during the
13 time for which it is suspended.

14 (3) Any permittee shall have the right of appeal from an
15 order of the department denying, revoking, suspending, or refusing
16 renewal of a delegated dispensing permit. The appeal shall be in
17 accordance with the Administrative Procedure Act.

18 Sec. 976. Section 71-1,147.47, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 ~~71-1,147.47~~ When appropriate, the Attorney General, ~~upon~~
21 with the recommendation of the board, shall initiate criminal
22 charges against pharmacists or other persons who knowingly permit
23 individuals dispensing pursuant to a delegated dispensing permit
24 to perform professional duties which require the expertise or
25 professional judgment of a pharmacist.

1 Sec. 977. Section 71-1,147.48, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 ~~71-1,147.48~~ (1) ~~Upon~~ With the recommendation of the
4 board, the ~~Director of Regulation and Licensure~~ director shall
5 approve a formulary to be used by individuals dispensing pursuant
6 to a delegated dispensing permit. A formulary shall consist of
7 a list of drugs or devices appropriate to delegated dispensing
8 activities authorized by the delegated dispensing permit. Except
9 as otherwise provided in this section, if the board finds that a
10 formulary would be unnecessary to protect the public health and
11 welfare and promote public convenience and necessity, the board
12 shall recommend that no formulary be approved.

13 (2) (a) ~~Upon~~ With the recommendation of the board, which
14 shall be based on the recommendations of the Public Health
15 Clinic Formulary Advisory Committee, the director shall approve
16 the formulary to be used by public health clinics dispensing
17 pursuant to a delegated dispensing permit.

18 (b) The formulary for a public health clinic shall
19 consist of a list of drugs and devices for contraception,
20 sexually transmitted diseases, and vaginal infections which may
21 be dispensed and stored, patient instruction requirements which
22 shall include directions on the use of drugs and devices, potential
23 side effects and drug interactions, criteria for contacting the
24 on-call pharmacist, and accompanying written patient information.

25 (c) In no event shall the director approve for inclusion

1 in the formulary any drug or device not approved by the committee
2 or exclude any of the provisions for patient instruction approved
3 by the board.

4 (d) Drugs and devices with the following characteristics
5 shall not be eligible to be included in the formulary:

6 (i) Controlled substances;

7 (ii) Drugs with significant dietary interactions;

8 (iii) Drugs with significant drug-drug interactions; and

9 (iv) Drugs or devices with complex counseling profiles.

10 (3) (a) ~~Upon~~ With the recommendation of the board, the
11 director shall approve a formulary to be used by dialysis drug or
12 device distributors.

13 (b) The formulary for a dialysis drug or device
14 distributor shall consist of a list of drugs, solutions, supplies,
15 and devices for the treatment of chronic kidney failure which may
16 be dispensed and stored.

17 (c) In no event shall the director approve for inclusion
18 in the formulary any drug or device not approved by the board.

19 (d) Controlled substances shall not be eligible to be
20 included in the formulary.

21 Sec. 978. Section 71-1,147.50, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,147.50~~ (1) Each delegated dispensing permittee shall
24 have an actively practicing Nebraska-licensed pharmacist listed as
25 the delegating pharmacist in the delegated dispensing agreement.

1 The delegating pharmacist shall be responsible for all activities
2 set forth in his or her delegated dispensing agreement. The
3 delegating pharmacist shall approve and maintain a policy and
4 procedure manual governing those aspects of the practice of
5 pharmacy covered by the delegated dispensing agreement.

6 (2) The delegating pharmacist for a public health clinic
7 or a dialysis drug or device distributor shall be physically
8 in the clinic or distributor's facility at least once every
9 thirty days. The delegating pharmacist shall conduct and document
10 monthly inspections of all activities and responsibilities listed
11 in subsection (3) of this section and under his or her delegated
12 dispensing agreement.

13 (3) The delegating pharmacist for a public health clinic
14 shall be responsible for the security, environment, inventory,
15 and record keeping of all drugs and devices received, stored, or
16 dispensed by the public health clinic. The delegating pharmacist
17 for a dialysis drug or device distributor shall be responsible
18 for the distribution, record keeping, labeling, and delivery of
19 all drugs and devices dispensed by the dialysis drug or device
20 distributor.

21 Sec. 979. Section 71-1,147.52, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,147.52~~ The delegating pharmacist or the on-call
24 pharmacist shall not be held liable for acts or omissions on
25 the part of an individual dispensing pursuant to the delegated

1 dispensing permit.

2 Sec. 980. Section 71-1,147.53, Reissue Revised Statutes
3 of Nebraska, is amended to read:

4 ~~71-1,147.53~~ Under a delegated dispensing permit for a
5 public health clinic, approved formulary drugs and devices may
6 be dispensed by a public health clinic worker or a health care
7 professional licensed in Nebraska to practice medicine and surgery
8 or licensed in Nebraska as a registered nurse, licensed practical
9 nurse, or physician assistant without the onsite services of a
10 pharmacist if:

11 (1) The initial dispensing of all prescriptions for
12 approved formulary drugs and devices is conducted by a health care
13 professional licensed in Nebraska to practice medicine and surgery
14 or pharmacy or licensed in Nebraska as a registered nurse, licensed
15 practical nurse, or physician assistant;

16 (2) The drug or device is dispensed pursuant to a
17 prescription written on site by a practitioner;

18 (3) The only prescriptions to be refilled under
19 the delegated dispensing permit are prescriptions for oral
20 contraceptives;

21 (4) Prescriptions are accompanied by patient instructions
22 and written information approved by the ~~Director of Regulation and~~
23 ~~Licensure~~, director;

24 (5) The dispensing of authorized refills of oral
25 contraceptives is done by a licensed health care professional

1 listed in subdivision (1) of this section or by a public health
2 clinic worker;

3 (6) All drugs or devices are prepackaged by the
4 manufacturer or at a public health clinic by a pharmacist into
5 the quantity to be prescribed and dispensed at the public health
6 clinic;

7 (7) All drugs and devices stored, received, or dispensed
8 under the authority of public health clinics are properly labeled
9 at all times. For purposes of this subdivision, properly labeled
10 means that the label affixed to the container prior to dispensing
11 contains the following information:

12 (a) The name of the manufacturer;

13 (b) The lot number and expiration date from the
14 manufacturer or, if prepackaged by a pharmacist, the lot number and
15 calculated expiration date. Calculated expiration date means the
16 expiration date on the manufacturer's container or one year from
17 the date the drug is repackaged, whichever is earlier;

18 (c) Directions for patient use;

19 (d) The quantity of drug in the container;

20 (e) The name, strength, and dosage form of the drug; and

21 (f) Auxiliary labels as needed for proper adherence to
22 any prescription;

23 (8) The following additional information is added to the
24 label of each container when the drug or device is dispensed:

25 (a) The patient's name;

- 1 (b) The name of the prescribing health care professional;
2 (c) The prescription number;
3 (d) The date dispensed; and
4 (e) The name and address of the public health clinic;
5 (9) The only drugs and devices allowed to be dispensed or

6 stored by public health clinics appear on the formulary approved
7 pursuant to section ~~71-1,147.48~~; 977 of this act; and

8 (10) At any time that dispensing is occurring from a
9 public health clinic, the delegating pharmacist for the public
10 health clinic or on-call pharmacist in Nebraska is available,
11 either in person or by telephone, to answer questions from
12 clients, staff, public health clinic workers, or volunteers. This
13 availability shall be confirmed and documented at the beginning
14 of each day that dispensing will occur. The delegating pharmacist
15 or on-call pharmacist shall inform the public health clinic if
16 he or she will not be available during the time that his or
17 her availability is required. If a pharmacist is unavailable, no
18 dispensing shall occur.

19 Sec. 981. Section 71-1,147.54, Reissue Revised Statutes
20 of Nebraska, is amended to read:

21 ~~71-1,147.54~~ No person shall act as a public health clinic
22 worker in a public health clinic or as a dialysis drug or device
23 distributor worker for a dialysis drug or device distributor unless
24 the person:

- 25 (1) Is at least eighteen years of age;

1 (2) Has earned a high school diploma or the equivalent;

2 (3) Has completed approved training as provided in
3 section ~~71-1,147.55~~, 982 of this act; and

4 (4) Has demonstrated proficiency as provided in section
5 ~~71-1,147.56~~, 983 of this act.

6 Sec. 982. Section 71-1,147.55, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 ~~71-1,147.55~~ (1) A delegating pharmacist shall conduct the
9 training of public health clinic workers. The training shall be
10 approved in advance by ~~the department upon the recommendation of~~
11 the board. The board shall base its ~~recommendation~~ approval upon
12 the standards determined by the Public Health Clinic Formulary
13 Advisory Committee.

14 (2) A delegating pharmacist shall conduct training of
15 dialysis drug or device distributor workers. The training shall
16 be based upon the standards approved by ~~the department upon~~
17 ~~recommendation~~ of the board.

18 (3) The public health clinic, the dialysis drug or device
19 distributor, and the delegating pharmacist shall be responsible to
20 assure that approved training has occurred and is documented.

21 Sec. 983. Section 71-1,147.56, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 ~~71-1,147.56~~ (1) A public health clinic worker or dialysis
24 drug or device distributor worker shall demonstrate proficiency to
25 the delegating pharmacist, according to the standards ~~determined by~~

1 ~~the department upon recommendation of~~ approved by the board. The
2 delegating pharmacist shall document proficiency for each worker.
3 In addition, a public health clinic worker shall be supervised by
4 a licensed health care professional specified in subdivision (1) of
5 section ~~71-1,147.53~~ 980 of this act for the first month that such
6 worker is dispensing refills of oral contraceptives.

7 (2) Following initial training and proficiency
8 demonstration, the public health clinic worker or dialysis drug or
9 device distributor worker shall demonstrate continued proficiency
10 at least annually. A dialysis drug or device distributor worker
11 shall attend annual training programs taught by a pharmacist.
12 Documentation of such training shall be maintained in the worker's
13 employee file.

14 (3) The public health clinic or dialysis drug or device
15 distributor for which a public health clinic worker or dialysis
16 drug or device distributor worker is working shall be liable for
17 acts or omissions on the part of such worker.

18 Sec. 984. Section 71-1,147.57, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 ~~71-1,147.57~~ A delegating pharmacist shall conduct the
21 training of all licensed health care professionals specified in
22 subdivision (1) of section ~~71-1,147.53~~ 980 of this act and who are
23 dispensing pursuant to the delegated dispensing permit of a public
24 health clinic. The training shall be approved in advance by ~~the~~
25 ~~department upon the recommendation of~~ the board. The board shall

1 base its ~~recommendation~~ approval upon the standards determined by
2 the Public Health Clinic Formulary Advisory Committee.

3 Sec. 985. Section 71-1,147.59, Reissue Revised Statutes
4 of Nebraska, is amended to read:

5 ~~71-1,147.59~~ (1) The board may appoint formulary advisory
6 committees as deemed necessary for the determination of formularies
7 for delegated dispensing permittees.

8 (2) The Public Health Clinic Formulary Advisory Committee
9 is created. The committee shall consist of eight members as
10 follows:

11 (a) Two members designated by the board;

12 (b) Two members who are employees of the department
13 with knowledge of and interest in reproductive health and sexually
14 transmitted diseases;

15 (c) Two members who are licensed pharmacists in this
16 state and who are selected by the ~~Director of Regulation and~~
17 ~~Licensure.~~ director. The Nebraska Pharmacists Association may
18 submit to the director a list of five persons of recognized ability
19 in the profession. If such a list is submitted, the director shall
20 consider the names on such list and may appoint one or more of
21 the persons so named. The director may appoint any qualified person
22 even if such person is not named on the list submitted by the
23 association; and

24 (d) Two members who are employees of public health
25 clinics which hold or will hold a delegated dispensing permit and

1 who are selected by the director from names recommended by such
2 public health clinics.

3 (3) Designations and recommendations shall be made and
4 submitted to the director in July prior to the third quarter
5 meeting of the committee. Members shall serve for terms of two
6 years each beginning with the third quarter meeting. Members may
7 serve for consecutive terms as approved by the director. The
8 director may remove a member of the committee for inefficiency,
9 neglect of duty, or misconduct in office.

10 Sec. 986. Section 71-1,147.33, Revised Statutes
11 Cumulative Supplement, 2006, is amended to read:

12 ~~71-1,147.33~~ (1) A pharmacy technician shall only perform
13 tasks which do not require professional judgment and which are
14 subject to verification to assist a pharmacist in the practice of
15 pharmacy.

16 (2) The functions and tasks which shall not be performed
17 by pharmacy technicians or individuals dispensing pursuant to a
18 delegated dispensing permit include, but are not limited to:

19 (a) Receiving oral medical orders from a practitioner or
20 his or her agent;

21 (b) Providing patient counseling;

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

25 (d) Supervising or verifying the tasks and functions of

1 pharmacy technicians;

2 (e) Interpreting or evaluating the data contained in a
3 patient's record maintained pursuant to section ~~71-1,147.35~~, 965 of
4 this act;

5 (f) Releasing any confidential information maintained by
6 the pharmacy;

7 (g) Performing any professional consultations; and

8 (h) Drug product selecting, with regard to an individual
9 medical order, in accordance with the Nebraska Drug Product
10 Selection Act.

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

21 (4) The pharmacy employing pharmacy technicians shall
22 be responsible for the supervision and performance of such
23 technicians.

24 (5) The pharmacist in charge shall be responsible
25 for the practice of pharmacy and the establishment of written

1 control procedures and guidelines governing the qualifications,
2 onsite training, functions, supervision, and verification of the
3 performance of pharmacy technicians. The supervision of such
4 technicians at the place of employment shall be performed by
5 the licensed pharmacist who is on duty in the facility with the
6 pharmacy technicians.

7 (6) (a) Each pharmacy shall document, in a manner
8 and method specified in the written control procedures and
9 guidelines, the basic competence of the pharmacy technician prior
10 to performance of tasks and functions by such technician. Such
11 basic competence shall include, but not be limited to:

12 (i) Basic pharmaceutical nomenclature;

13 (ii) Metric system measures, both liquid and solid;

14 (iii) The meaning and use of Roman numerals;

15 (iv) Abbreviations used for dosages and directions to
16 patients;

17 (v) Basic medical terms, including terms relating to
18 ailments, diseases, or infirmities;

19 (vi) The use and operation of automated dispensing and
20 record-keeping systems if used by the employing pharmacy;

21 (vii) Applicable statutes, rules, and regulations
22 governing the preparation, compounding, dispensing, and
23 distribution of drugs or devices, record keeping with regard to
24 such functions, and the employment, use, and functions of pharmacy
25 technicians; and

1 (viii) The contents of the written control procedures and
2 guidelines.

3 (b) Written control procedures and guidelines shall
4 specify the functions that pharmacy technicians may perform in the
5 employing pharmacy. The written control procedures and guidelines
6 shall specify the means used by the employing pharmacy to verify
7 that the prescribed drug or device, the dosage form, and the
8 directions provided to the patient or caregiver conform to the
9 medical order authorizing the drug or device to be dispensed.

10 (c) The written control procedures and guidelines shall
11 specify the manner in which the verification made prior to
12 dispensing is documented.

13 (7) Each pharmacy or facility shall, before using
14 pharmacy technicians, file with the board a copy of its written
15 control procedures and guidelines and receive approval of its
16 written control procedures and guidelines from the board. The
17 board shall, within ninety days from the filing of such written
18 control procedures and guidelines, review and either approve or
19 disapprove them. The board shall notify the pharmacy or facility
20 of the approval or disapproval. The board or its representatives
21 shall have access to the approved written control procedures
22 and guidelines upon request. Any written control procedures and
23 guidelines for supportive pharmacy personnel that were filed by a
24 pharmacy and approved by the board prior to May 26, 1999, shall be
25 deemed to be approved and to apply to pharmacy technicians.

1 (8) Any hospital using supportive pharmacy personnel
2 prior to June 11, 1993, and using pharmacy technicians on or after
3 May 1, 2001, shall file a copy of written control procedures and
4 guidelines with the board by February 1, 2002, or such hospital
5 shall be in violation of subsection (2) of section ~~71-1,147.~~ 963 of
6 this act.

7 (9) (a) If pharmacy technicians perform functions
8 requiring professional judgment and licensure as a pharmacist,
9 perform functions not specified under approved written control
10 procedures and guidelines, or perform functions without supervision
11 and such acts are known to the pharmacist supervising the pharmacy
12 technicians or the pharmacist in charge or are of such a nature
13 that they should have been known to a reasonable person, such acts
14 may be considered acts of unprofessional conduct on the part of the
15 pharmacist supervising the pharmacy technicians or the pharmacist
16 in charge pursuant to section ~~71-147~~ 78 of this act against whom
17 disciplinary measures may be taken.

18 (b) Acts described in subdivision (a) of this subsection
19 may be grounds for the department, ~~upon~~ with the recommendation of
20 the board, to apply to the district court in the judicial district
21 in which the pharmacy is located for an order to cease and desist
22 from the performance of any unauthorized acts. On or at any time
23 after such application the court may, in its discretion, issue an
24 order restraining such pharmacy or its agents or employees from
25 the performance of unauthorized acts. After a full hearing the

1 court shall either grant or deny the application. Such order shall
2 continue until the court, after a like hearing, finds the basis for
3 such order has been removed.

4 Sec. 987. Section 71-1,147.34, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,147.34~~ (1) Disciplinary action may be taken against
7 the license of the employing pharmacy or the license of the
8 hospital pursuant to the Health Care Facility Licensure Act, or
9 against the license of the pharmacist in charge pursuant to section
10 ~~71-155,~~ 86 of this act, for the failure to submit written control
11 procedures and guidelines and to receive board approval prior to
12 the employment of pharmacy technicians.

13 (2) Disciplinary action may be taken in accordance with
14 section ~~71-155~~ 86 of this act against the supervising pharmacist
15 who is on duty in the pharmacy and is responsible for the
16 supervision of pharmacy technicians for his or her failure or
17 the failure of the pharmacists or pharmacy technicians to follow
18 approved written control procedures and guidelines.

19 (3) Disciplinary action may be taken in accordance with
20 section ~~71-155~~ 86 of this act against the supervising pharmacist
21 who is on duty in the pharmacy and is responsible for the
22 supervision of pharmacy technicians for any failure to properly
23 verify the accuracy and completeness of the acts, tasks, or
24 functions undertaken by pharmacy technicians, which failure results
25 in a discrepancy in the dispensing process.

1 (4) Disciplinary action may be taken in accordance with
2 section ~~71-155~~ 86 of this act against the license of a pharmacist
3 in charge, or in accordance with the Health Care Facility Licensure
4 Act against the license of the pharmacy or the hospital, for the
5 hiring and employment of an individual to serve as a pharmacy
6 technician when the pharmacist, pharmacy, or hospital knew or
7 reasonably should have known that such individual was not qualified
8 by law to so serve.

9 Sec. 988. The department shall establish and collect fees
10 for credentialing under the Pharmacy Practice Act as provided in
11 sections 51 to 57 of this act.

12 Sec. 989. Section 71-1,148, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~71-1,148~~ The department, ~~upon~~ with the recommendation
15 of the board, shall adopt and promulgate rules and regulations
16 as deemed necessary to implement sections ~~71-1,142 to 71-1,151,~~
17 ~~71-2401 to 71-2405,~~ and 71-2501 to 71-2512, the Mail Service
18 Pharmacy Licensure Act, the Nebraska Drug Product Selection Act,
19 the Pharmacy Practice Act, and the Uniform Controlled Substances
20 Act. The minimum standards and requirements for the practice of
21 pharmacy, including dispensing pursuant to a delegated dispensing
22 permit, shall be consistent with the minimum standards and
23 requirements established by the department for pharmacy licenses
24 under the Health Care Facility Licensure Act.

25 Sec. 990. Section 71-1,149, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1,149~~ The department may place under seal all drugs or
3 devices that are owned by or in the possession, custody, or control
4 of a licensee or permittee under ~~sections 71-1,142 to 71-1,151~~ the
5 Pharmacy Practice Act at the time his or her license or permit
6 is suspended or revoked or at the time the board or department
7 refuses to renew his or her license or permit. Except as otherwise
8 provided in this section, drugs or devices so sealed shall not be
9 disposed of until appeal rights under the Administrative Procedure
10 Act have expired or an appeal filed pursuant to the act has been
11 determined. The court involved in an appeal filed pursuant to the
12 Administrative Procedure Act may order the department during the
13 pendency of the appeal to sell sealed drugs or devices that are
14 perishable. The proceeds of such a sale shall be deposited with the
15 court.

16 Sec. 991. Only a licensed pharmacist who is or who has
17 been engaged in the active practice of pharmacy shall be appointed
18 by the department to serve as a pharmacy inspector with the consent
19 and approval of the board.

20 Sec. 992. Section 71-1,147.15, Reissue Revised Statutes
21 of Nebraska, is amended to read:

22 ~~71-1,147.15~~ It shall be unlawful to distribute, dispense,
23 or vend any drug by automatic or vending machine, except that this
24 ~~prohibition~~ section shall not apply to a facility.

25 Sec. 993. Section 71-1,147.13, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,147.13~~ Any person who does or commits any of the
3 acts or things prohibited by ~~sections 71-1,142 to 71-1,151~~ the
4 Pharmacy Practice Act or otherwise violates any of the provisions
5 thereof shall be guilty of a Class II misdemeanor except as
6 otherwise specifically provided.

7 Sec. 994. Section 71-1,362, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 ~~71-1,362~~ Sections ~~71-1,362 to 71-1,389~~ 994 to 1022 of
10 this act shall be known and may be cited as the Physical Therapy
11 Practice Act.

12 Sec. 995. Section 71-1,363, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 ~~71-1,363~~ The purpose of the Physical Therapy Practice Act
15 is to update and recodify statutes relating to the practice of
16 physical therapy. Nothing in the act shall be construed to expand
17 the scope of practice of physical therapy as it existed prior to
18 July 14, 2006.

19 Sec. 996. Section 71-1,364, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 ~~71-1,364~~ For purposes of the Physical Therapy Practice
22 Act, the definitions found in sections ~~71-1,365 to 71-1,380~~ 997 to
23 1011 of this act apply.

24 Sec. 997. Section 71-1,365, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 ~~71-1,365~~ Approved educational program means a program for
2 the education and training of physical therapists and physical
3 therapist assistants approved by the board pursuant to section
4 ~~71-1,388-~~ 1019 of this act.

5 Sec. 998. Section 71-1,366, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-1,366~~ Board means the Board of Physical Therapy.

8 Sec. 999. Section 71-1,368, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 ~~71-1,368~~ Direct supervision means supervision in which
11 the supervising practitioner is physically present and immediately
12 available and does not include supervision provided by means of
13 telecommunication.

14 Sec. 1000. Section 71-1,369, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 ~~71-1,369~~ Evaluation means the process of making clinical
17 judgments based on data gathered from examination of a patient.

18 Sec. 1001. Section 71-1,370, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 ~~71-1,370~~ General supervision means supervision either
21 onsite or by means of telecommunication.

22 Sec. 1002. Section 71-1,371, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 ~~71-1,371~~ Jurisdiction of the United States means any
25 state of the United States, the District of Columbia, the

1 Commonwealth of Puerto Rico, or any American territory.

2 Sec. 1003. Section 71-1,372, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 ~~71-1,372~~ Mobilization or manual therapy means a group of
5 techniques comprising a continuum of skilled passive movements to
6 the joints or related soft tissues, or both, throughout the normal
7 physiological range of motion that are applied at varying speeds
8 and amplitudes, without limitation.

9 Sec. 1004. Section 71-1,373, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 ~~71-1,373~~ Non-treatment-related tasks means clerical,
12 housekeeping, facility maintenance, or patient transportation
13 services related to the practice of physical therapy.

14 Sec. 1005. Section 71-1,374, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 ~~71-1,374~~ Physical therapist means a person licensed to
17 practice physical therapy under the Physical Therapy Practice Act.

18 Sec. 1006. Section 71-1,375, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 ~~71-1,375~~ Physical therapist assistant means a person
21 certified as a physical therapist assistant under the Physical
22 Therapy Practice Act.

23 Sec. 1007. Section 71-1,376, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 ~~71-1,376~~ Physical therapy or physiotherapy means:

1 (1) Examining, evaluating, and testing individuals
2 with mechanical, physiological, and developmental impairments,
3 functional limitations, and disabilities or other conditions
4 related to health and movement and, through analysis of the
5 evaluative process, developing a plan of therapeutic intervention
6 and prognosis while assessing the ongoing effects of the
7 intervention;

8 (2) Alleviating impairment, functional limitation, or
9 disabilities by designing, implementing, or modifying therapeutic
10 interventions which may include any of the following: Therapeutic
11 exercise; functional training in home, community, or work
12 integration or reintegration related to physical movement and
13 mobility; therapeutic massage; mobilization or manual therapy;
14 recommendation, application, and fabrication of assistive,
15 adaptive, protective, and supportive devices and equipment;
16 airway clearance techniques; integumentary protection techniques;
17 nonsurgical debridement and wound care; physical agents or
18 modalities; mechanical and electrotherapeutic modalities; and
19 patient-related instruction; but which does not include the making
20 of a medical diagnosis;

21 (3) Purchasing, storing, and administering topical
22 and aerosol medication in compliance with applicable rules and
23 regulations of the Board of Pharmacy regarding the storage of such
24 medication;

25 (4) Reducing the risk of injury, impairment, functional

1 limitation, or disability, including the promotion and maintenance
2 of fitness, health, and wellness; and

3 (5) Engaging in administration, consultation, education,
4 and research.

5 Sec. 1008. Section 71-1,377, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-1,377~~ Physical therapy aide means a person who is
8 trained under the direction of a physical therapist and who
9 performs treatment-related and non-treatment-related tasks.

10 Sec. 1009. Section 71-1,378, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 ~~71-1,378~~ Student means a person enrolled in an approved
13 educational program.

14 Sec. 1010. Section 71-1,379, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 ~~71-1,379~~ Testing means standard methods and techniques
17 used to gather data about a patient. Testing includes surface
18 electromyography and, subject to approval of the board, fine
19 wire electromyography. Testing excludes diagnostic needle
20 electromyography.

21 Sec. 1011. Section 71-1,380, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 ~~71-1,380~~ Treatment-related tasks means activities related
24 to the practice of physical therapy that do not require the
25 clinical decisionmaking of a physical therapist or the clinical

1 problem solving of a physical therapist assistant.

2 Sec. 1012. Section 71-1,381, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 ~~71-1,381~~ (1) No person may practice physical therapy,
5 hold oneself out as a physical therapist or physiotherapist, or
6 use the abbreviation PT in this state without being licensed by
7 the department. No person may practice as a physical therapist
8 assistant, hold oneself out as a physical therapist assistant, or
9 use the abbreviation PTA in this state without being certified by
10 the department.

11 (2) A physical therapist may use the title physical
12 therapist or physiotherapist and the abbreviation PT in connection
13 with his or her name or place of business. A physical therapist
14 assistant may use the title physical therapist assistant and the
15 abbreviation PTA in connection with his or her name.

16 (3) No person who offers or provides services to another
17 or bills another for services shall characterize such services as
18 physical therapy or physiotherapy unless such services are provided
19 by a physical therapist or a physical therapist assistant acting
20 under the general supervision of a physical therapist.

21 Sec. 1013. Section 71-1,382, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 ~~71-1,382~~ The following classes of persons shall not be
24 construed to be engaged in the unauthorized practice of physical
25 therapy:

1 (1) A member of another profession who is credentialed by
2 the department and who is acting within the scope of practice of
3 his or her profession;

4 (2) A student in an approved educational program who is
5 performing physical therapy or related services within the scope
6 of such program and under the direct supervision of a physical
7 therapist;

8 (3) A person practicing physical therapy or as a physical
9 therapist assistant in this state ~~pursuant to federal regulations~~
10 ~~for state licensure of health care providers for~~ who serves in
11 the armed forces of the United States Armed Forces, or the United
12 States Public Health Service, or who is employed by the United
13 States Department of Veterans Affairs or other federal agencies, if
14 their practice is limited to that service or employment;

15 (4) A person credentialed to practice physical therapy
16 or as a physical therapist assistant in another jurisdiction of
17 the United States or in another country who is teaching physical
18 therapy or demonstrating or providing physical therapy or related
19 services in connection with an educational program in this state;

20 (5) A person credentialed to practice physical therapy
21 in another jurisdiction of the United States or in another country
22 who, by contract or employment, is providing physical therapy
23 or related services in this state to individuals affiliated with
24 established athletic teams, athletic organizations, or performing
25 arts companies while such teams, organizations, or companies are

1 present and temporarily practicing, competing, or performing in
2 this state; or

3 (6) A person employed by a school district, educational
4 service unit, or other public or private educational institution
5 or entity serving ~~pre-kindergarten~~ prekindergarten through
6 twelfth grade students who is providing personal assistance
7 services, including mobility and transfer activities, such as
8 assisting with ambulation with and without aids; positioning in
9 adaptive equipment; application of braces; encouraging active
10 range-of-motion exercises; assisting with passive range-of-motion
11 exercises; assisting with transfers with or without mechanical
12 devices; and such other personal assistance services based on
13 individual needs as are suitable to providing an appropriate
14 educational program.

15 Sec. 1014. Section 71-1,383, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 ~~71-1,383~~ Every applicant for a license to practice
18 physical therapy shall:

19 (1) Present proof of completion of an approved
20 educational program;

21 (2) In the case of an applicant who has been trained as a
22 physical therapist in a foreign country, (a) present documentation
23 of completion of a course of professional instruction substantially
24 equivalent to an approved program accredited by the Commission on
25 Accreditation in Physical Therapy Education or by an equivalent

1 accrediting agency as determined by the board and (b) present proof
2 of proficiency in the English language; and

3 (3) Successfully complete an examination approved by the
4 department, with the ~~upon~~ recommendation of the board.

5 Sec. 1015. Section 71-1,384, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 ~~71-1,384~~ Every applicant for a certificate to practice as
8 a physical therapist assistant shall:

9 (1) Present proof of completion of an approved
10 educational program; and

11 (2) Successfully complete an examination approved by the
12 department, with the ~~upon~~ recommendation of the board.

13 Sec. 1016. An applicant for licensure to practice as
14 a physical therapist who has met the education and examination
15 requirements in section 1014 of this act or to practice as
16 a physical therapist assistant who has met the education and
17 examination requirements in section 1015 of this act, who passed
18 the examination more than three years prior to the time of
19 application for licensure, and who is not practicing at the time
20 of application for licensure shall present proof satisfactory
21 to the department that he or she has within the three years
22 immediately preceding the application for licensure completed
23 continuing competency requirements approved by the board pursuant
24 to section 45 of this act.

25 Sec. 1017. An applicant for licensure to practice as a

1 physical therapist or to practice as a physical therapist assistant
2 who has met the standards set by the board pursuant to section
3 26 of this act for a license based on licensure in another
4 jurisdiction but is not practicing at the time of application
5 for licensure shall present proof satisfactory to the department
6 that he or she has within the three years immediately preceding
7 the application for licensure completed continuing competency
8 requirements approved by the board pursuant to section 45 of
9 this act.

10 Sec. 1018. The department shall establish and collect
11 fees for credentialing activities as provided in sections 51 to 57
12 of this act.

13 Sec. 1019. Section 71-1,388, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 ~~71-1,388~~ The board may approve programs for physical
16 therapy or physical therapist assistant education and training.
17 Such approval may be based on the program's accreditation by
18 the Commission on Accreditation in Physical Therapy Education or
19 equivalent standards established by the board.

20 Sec. 1020. Section 71-1,385, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 ~~71-1,385~~ (1) A physical therapist assistant may perform
23 physical therapy services under the general supervision of a
24 physical therapist, except that no physical therapist assistant
25 shall perform the following:

- 1 (a) Interpretation of physician referrals;
2 (b) Development of a plan of care;
3 (c) Initial evaluations or reevaluation of patients;
4 (d) Readjustment of a plan of care without consultation
5 with the supervising physical therapist; or
6 (e) Discharge planning for patients.

7 (2) A physical therapist may provide general supervision
8 for no more than two physical therapist assistants. A physical
9 therapist shall not establish a satellite office at which a
10 physical therapist assistant provides care without the general
11 supervision of the physical therapist.

12 (3) A physical therapist shall reevaluate or reexamine on
13 a regular basis each patient receiving physical therapy services
14 from a physical therapist assistant under the general supervision
15 of the physical therapist.

16 (4) A supervising physical therapist and the physical
17 therapist assistant under general supervision shall review the plan
18 of care on a regular basis for each patient receiving physical
19 therapy services from the physical therapist assistant.

20 (5) A physical therapist assistant may document physical
21 therapy services provided by the physical therapist assistant
22 without the signature of the supervising physical therapist.

23 (6) A physical therapist assistant may act as a clinical
24 instructor for physical therapist assistant students in an approved
25 educational program.

1 Sec. 1021. Section 71-1,386, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 ~~71-1,386~~ (1) For each patient under his or her care, a
4 physical therapist shall:

5 (a) Be responsible for managing all aspects of physical
6 therapy services provided to the patient and assume legal liability
7 for physical therapy and related services provided under his or her
8 supervision;

9 (b) Provide an initial evaluation and documentation of
10 the evaluation;

11 (c) Provide periodic reevaluation and documentation of
12 the reevaluation;

13 (d) Provide documentation for discharge, including the
14 patient's response to therapeutic intervention at the time of
15 discharge; and

16 (e) Be responsible for accurate documentation and billing
17 for services provided.

18 (2) For each patient under his or her care on each date
19 physical therapy services are provided to such patient, a physical
20 therapist shall:

21 (a) Provide all therapeutic interventions that require
22 the expertise of a physical therapist; and

23 (b) Determine the appropriate use of physical therapist
24 assistants or physical therapy aides.

25 Sec. 1022. Section 71-1,387, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-1,387~~ A physical therapy aide may perform
3 treatment-related and non-treatment-related tasks under the
4 supervision of a physical therapist or a physical therapist
5 assistant.

6 Sec. 1023. Sections 1023 to 1034 of this act shall be
7 known and may be cited as the Podiatry Practice Act.

8 Sec. 1024. For purposes of the Podiatry Practice Act
9 and elsewhere in the Uniform Credentialing Act, unless the context
10 otherwise requires, the definitions found in sections 1025 to 1027
11 of this act apply.

12 Sec. 1025. Board means the Board of Podiatry.

13 Sec. 1026. Podiatrist means a physician of the foot,
14 ankle, and related governing structures.

15 Sec. 1027. Practice of podiatry means the diagnosis or
16 medical, physical, or surgical treatment of the ailments of the
17 human foot, ankle, and related governing structures except (1) the
18 amputation of the forefoot, (2) the general medical treatment of
19 any systemic disease causing manifestations in the foot, and (3)
20 the administration of anesthetics other than local.

21 Sec. 1028. Section 71-173, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~71-173 For purposes of the Uniform Licensing Law:~~

24 ~~(1)~~ The following persons shall be deemed to be
25 practicing podiatry: Persons who publicly profess to be podiatrists

1 or who publicly profess to assume the duties incident to the
2 practice of podiatry. ~~7~~

3 ~~(2) Practice of podiatry means the diagnosis or medical,~~
4 ~~physical, or surgical treatment of the ailments of the human~~
5 ~~foot, ankle, and related governing structures except (a) the~~
6 ~~amputation of the forefoot, (b) the general medical treatment of~~
7 ~~any systemic disease causing manifestations in the foot, and (c)~~
8 ~~the administration of anesthetics other than local; and~~

9 ~~(3) Podiatrist means a physician of the foot, ankle, and~~
10 ~~related governing structures.~~

11 Sec. 1029. Section 71-174, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~71-174 Section 71-173~~ The Podiatry Practice Act shall
14 not be construed to include (1) licensed physicians and surgeons
15 or licensed osteopathic physicians, (2) physicians and surgeons ~~of~~
16 who serve in the armed forces of the United States or the United
17 States Army, Navy, or Public Health Service when acting in the line
18 of duty in this state, or who are employed by the United States
19 Department of Veterans Affairs or other federal agencies, if their
20 practice is limited to that service or employment, (3) students
21 who have not graduated from a school of podiatry and are enrolled
22 in an approved and accredited school of podiatry when the services
23 performed are a part of the course of study and are under the
24 direct supervision of a licensed podiatrist, or (4) graduates of a
25 school of podiatry currently enrolled in a postgraduate residency

1 program approved by the Council on Podiatric Medical Education of
2 the American Podiatric Medical Association.

3 Sec. 1030. Section 71-175, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-175~~ Every applicant for an initial license to practice
6 podiatry shall (1) present proof of graduation from a school of
7 chiropody or podiatry approved by the ~~department on recommendation~~
8 ~~of the Board of Podiatry,~~ board, (2) present proof of completion of
9 a minimum one-year postgraduate residency program approved by the
10 Council on Podiatric Medical Education of the American Podiatric
11 Medical Association, and (3) pass a written examination which
12 consists of (a) parts I and II of the examination given by the
13 National Board of Podiatric Medical Examiners and (b) the written
14 examination ~~prescribed~~ approved by the Board of Podiatry, and (4)
15 present proof satisfactory to the board that he or she, within two
16 years immediately preceding the application for licensure, (a) has
17 been in the active practice of the profession of podiatry under a
18 license in another state or territory of the United States or the
19 District of Columbia for a period of one year, (b) has completed at
20 least one year of a postgraduate residency program approved by the
21 Council on Podiatric Medical Education of the American Podiatric
22 Medical Association, or (c) has completed continuing competency in
23 podiatry approved by the board. Every applicant for a license to
24 practice podiatry shall be required to pay the required fee.

25 Sec. 1031. The department shall establish and collect

1 fees for credentialing under the Podiatry Practice Act as provided
2 in sections 51 to 57 of this act.

3 Sec. 1032. Section 71-176, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~71-176~~ No school of podiatry shall be approved ~~and~~
6 ~~accredited by the board unless said the~~ school is accredited by the
7 Council on Podiatric Medical Education of the American Podiatric
8 Medical Association.

9 Sec. 1033. Section 71-174.02, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-174.02~~ A podiatrist shall not perform surgery on the
12 ankle other than in a licensed hospital or ambulatory surgical
13 center, and a podiatrist who performs surgery on the ankle in
14 a licensed hospital or ambulatory surgical center shall have
15 successfully completed an advanced postdoctoral surgical residency
16 program of at least one year's duration which is recognized as
17 suitable for that purpose by the ~~Board of Podiatry-~~ board.

18 No podiatrist initially licensed in this state on or
19 after September 1, 2001, shall perform surgery on the ankle unless
20 such person has successfully completed an advanced postdoctoral
21 surgical residency program of at least two years' duration which is
22 recognized as suitable for that purpose by the ~~Board of Podiatry-~~
23 board.

24 Sec. 1034. Section 71-176.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~71-176.01~~ (1) ~~On and after January 1, 1996,~~ a A person
2 employed exclusively in the office or clinic of a licensed
3 podiatrist shall not perform any of the functions described
4 in ~~subsection (2) of section 71-3515.01~~ 654 of this act as
5 a part of such employment unless the person is (a) licensed
6 as a limited radiographer under the ~~Radiation Control~~ Medical
7 Radiography Practice Act or (b) certified as provided in this
8 section.

9 (2) The Board of Podiatry department, with the
10 recommendation of the board, may certify a person to perform
11 medical radiography on the anatomical regions of the ankle and
12 foot if such person (a) has completed a fifteen-hour course of
13 instruction, approved by the board, on radiation hygiene and
14 podiatric radiological practices, including radiation health and
15 safety, lower extremity anatomy, physics, concepts, physiology,
16 techniques, positioning, equipment maintenance, and minimization
17 of radiation exposure, and (b) passed a competency examination
18 approved by the board. A person who has not passed the competency
19 examination after three attempts shall successfully complete a
20 remedial course of instruction in medical radiography, approved by
21 the board, prior to any further attempts to pass the competency
22 examination.

23 Sec. 1035. Sections 1035 to 1066 of this act shall be
24 known and may be cited as the Psychology Practice Act.

25 Sec. 1036. Section 71-1,206.01, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,206.01~~ For purposes of ~~sections 71-1,206.01 to~~
3 ~~71-1,206.35,~~ the Psychology Practice Act and elsewhere in the
4 Uniform Credentialing Act, unless the context otherwise requires,
5 the definitions found in sections ~~71-1,206.02 to 71-1,206.10 shall~~
6 ~~be used.~~ 1037 to 1044 of this act apply.

7 Sec. 1037. Section 71-1,206.02, Reissue Revised Statutes
8 of Nebraska, is amended to read:

9 ~~71-1,206.02~~ Board ~~shall mean~~ means the Board of
10 ~~Psychologists.~~ Psychology.

11 Sec. 1038. Section 71-1,206.03, Reissue Revised Statutes
12 of Nebraska, is amended to read:

13 ~~71-1,206.03~~ Client or patient ~~shall mean~~ means a
14 recipient of psychological services within the context of a
15 professional relationship. In the case of individuals with legal
16 guardians, including minors and incompetent adults, the legal
17 guardian shall also be considered a client or patient for
18 decisionmaking purposes.

19 Sec. 1039. Section 71-1,206.04, Reissue Revised Statutes
20 of Nebraska, is amended to read:

21 ~~71-1,206.04~~ Code of conduct ~~shall mean~~ means that set of
22 regulatory rules of professional conduct which has been adopted by
23 the board ~~pursuant to section 71-1,206.12~~ to protect the public
24 welfare by providing rules that govern a professional's behavior in
25 the professional relationship.

1 Sec. 1040. Section 71-1,206.06, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 ~~71-1,206.06~~ Institution of higher education ~~shall mean~~
4 means a university, professional school, or other institution of
5 higher learning that:

6 (1) In the United States, is regionally accredited by a
7 regional or professional accrediting organization recognized by the
8 United States Department of Education;

9 (2) In Canada, holds a membership in the Association of
10 Universities and Colleges of Canada; or

11 (3) In other countries, is accredited by the respective
12 official organization having such authority.

13 Sec. 1041. Section 71-1,206.07, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 ~~71-1,206.07~~ Mental and emotional disorder ~~shall mean~~
16 means a clinically significant behavioral or psychological syndrome
17 or pattern that occurs in a person and is associated with present
18 distress or disability or with significantly increased risk of
19 suffering death, pain, disability, or an important loss of freedom.
20 Such disorders may take many forms and have varying causes but
21 must be considered a manifestation of behavioral, psychological,
22 or biological dysfunction in the person. Reasonable descriptions
23 of the kinds and degrees of mental and emotional disorders may
24 be found in the revisions of accepted nosologies such as the
25 International Classification of Diseases and the Diagnostic and

1 Statistical Manual of Mental Disorders.

2 Sec. 1042. Section 71-1,206.08, Reissue Revised Statutes
3 of Nebraska, is amended to read:

4 ~~71-1,206.08~~ (1) Practice of psychology ~~shall mean~~ means
5 the observation, description, evaluation, interpretation, or
6 modification of human behavior by the application of psychological
7 principles, methods, or procedures for the purpose of preventing or
8 eliminating symptomatic, maladaptive, or undesired behavior and of
9 enhancing interpersonal relationships, work and life adjustment,
10 personal effectiveness, behavioral health, and mental health.

11 (2) The practice of psychology ~~shall include,~~ includes,
12 but is not be limited to, psychological testing and the
13 evaluation or assessment of personal characteristics such as
14 intelligence, personality, abilities, interests, aptitudes, and
15 psychophysiological and neuropsychological functioning; counseling,
16 psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior
17 analysis and therapy; diagnosis and treatment of mental and
18 emotional disorders, alcoholism and substance abuse, disorders
19 of habit or conduct, and the psychological aspects of physical
20 illness, accident, injury, or disability; psychoeducational
21 evaluation, therapy, remediation, and consultation; and supervision
22 of qualified individuals performing services specified in this
23 section.

24 (3) Psychological services may be rendered to
25 individuals, families, groups, organizations, institutions, and the

1 public. The practice of psychology shall be construed within the
2 meaning of this definition without regard to whether payment is
3 received for services rendered.

4 Sec. 1043. Section 71-1,206.09, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,206.09~~ Psychologist ~~shall mean~~ means a person
7 licensed to engage in the practice of psychology in this or another
8 jurisdiction. The terms certified, registered, chartered, or any
9 other term chosen by a jurisdiction to authorize the autonomous
10 practice of psychology shall be considered equivalent terms.

11 Sec. 1044. Section 71-1,206.10, Reissue Revised Statutes
12 of Nebraska, is amended to read:

13 ~~71-1,206.10~~ Representation as a psychologist ~~shall~~
14 ~~mean~~ means that the person uses any title or description of
15 services which incorporates the words psychology, psychological,
16 or psychologist or which implies that he or she possesses expert
17 qualification in any area of psychology or that the person offers
18 to individuals or to groups of individuals services defined as the
19 practice of psychology.

20 Sec. 1045. Section 71-1,206.14, Revised Statutes
21 Cumulative Supplement, 2006, is amended to read:

22 ~~71-1,206.14~~ (1) Unless otherwise expressly stated,
23 references to licensed psychologists in the Nebraska Mental Health
24 Commitment Act, in the Psychology Practice Act, in the Sex Offender
25 Commitment Act, ~~in sections 71-1,206.01 to 71-1,206.35,~~ and in

1 section 44-513 ~~shall mean~~ means only psychologists licensed under
2 section ~~71-1,206.15 or 71-1,206.17 or subdivisions (2) and (3)~~
3 ~~of section 71-1,206.18~~ 1048 of this act and ~~shall~~ does not mean
4 persons holding a special license under ~~subdivision (1) of section~~
5 ~~71-1,206.18 or under section 71-1,206.19~~ section 1050 of this act
6 or holding a provisional license under ~~sections 71-1,206.32 to~~
7 ~~71-1,206.35.~~ the Psychology Practice Act.

8 (2) Any reference to a person certified to practice
9 clinical psychology under the law in effect immediately prior to
10 September 1, 1994, and any equivalent reference under the law
11 of another jurisdiction, including, but not limited to, certified
12 clinical psychologist, health care practitioner in psychology, or
13 certified health care provider, shall be construed to refer to a
14 psychologist licensed under the Uniform Licensing Law Credentialing
15 Act except for persons licensed under ~~subdivision (1) of section~~
16 ~~71-1,206.18 or under section 71-1,206.19~~ section 1050 of this act
17 or holding a provisional license under ~~sections 71-1,206.32 to~~
18 ~~71-1,206.35.~~ the Psychology Practice Act.

19 Sec. 1046. The board shall consist of five professional
20 members and two public members appointed pursuant to section 58 of
21 this act. The members shall meet the requirements of sections 64
22 and 65 of this act, except that two of the five years of experience
23 for professional members may have been served in teaching or
24 research.

25 Sec. 1047. Section 71-1,206.25, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,206.25~~ (1) Nothing in sections ~~71-1,206.01~~ to
 3 ~~71-1,206.35~~ the Psychology Practice Act shall be construed to
 4 prevent:

5 (1) ~~The~~ the teaching of psychology, the conduct of
 6 psychological research, or the provision of psychological services
 7 or consultation to organizations or institutions if such teaching,
 8 research, or service does not involve the delivery or supervision
 9 of direct psychological services to individuals or groups of
 10 individuals who are themselves, rather than a third party, the
 11 intended beneficiaries of such services, without regard to the
 12 source or extent of payment for services rendered. Nothing in ~~such~~
 13 ~~sections~~ the act shall prevent the provision of expert testimony by
 14 psychologists who are otherwise exempted by ~~such sections.~~ the act.
 15 Persons holding a doctoral degree in psychology from an institution
 16 of higher education may use the title psychologist in conjunction
 17 with the activities permitted by this ~~subsection.~~ subdivision;

18 (2) ~~Nothing in sections 71-1,206.01 to 71-1,206.35 shall~~
 19 ~~be construed to prevent members~~ Members of other recognized
 20 professions that are licensed, certified, or regulated under the
 21 laws of this state from rendering services consistent with their
 22 professional training and code of ethics and within the scope of
 23 practice as set out in the statutes regulating their professional
 24 practice if they do not represent themselves to be psychologists; ~~-~~

25 (3) Duly ~~Nothing in sections 71-1,206.01 to 71-1,206.35~~

1 shall be construed to prevent duly recognized members of the
 2 clergy from functioning in their ministerial capacity if they do
 3 not represent themselves to be psychologists or their services as
 4 psychological; ~~or~~

5 (4) ~~Persons~~ Nothing in sections 71-1,206.01 to
 6 71-1,206.35 shall be construed to prevent persons who are certified
 7 as school psychologists by the State Board of Education from
 8 using the title school psychologist and practicing psychology as
 9 defined in such sections the Psychology Practice Act if such
 10 practice is restricted to regular employment within a setting
 11 under the jurisdiction of the State Board of Education. Such
 12 individuals shall be employees of the educational setting and
 13 not independent contractors providing psychological services to
 14 educational settings; ~~or~~

15 (5) ~~Any~~ Nothing in sections 71-1,206.01 to 71-1,206.35
 16 shall be construed to prevent any of the following persons from
 17 engaging in activities defined as the practice of psychology if
 18 they do not represent themselves by the title psychologist, if they
 19 do not use terms other than psychological trainee, psychological
 20 intern, psychological resident, or psychological assistant to refer
 21 to themselves, and if they perform their activities under the
 22 supervision and responsibility of a psychologist in accordance with
 23 the rules and regulations ~~of the board~~ adopted and promulgated
 24 under the Psychology Practice Act:

25 (a) A matriculated graduate student in psychology whose

1 activities constitute a part of the course of study for a graduate
2 degree in psychology at an institution of higher education;

3 (b) An individual pursuing postdoctoral training or
4 experience in psychology, including persons seeking to fulfill
5 the requirements for licensure under ~~sections 71-1,206.01 to~~
6 ~~71-1,206.35;~~ the act; or

7 (c) An individual with a master's degree in clinical,
8 counseling, or educational psychology or an educational specialist
9 degree in school psychology who administers and scores and
10 may develop interpretations of psychological testing under the
11 supervision of a psychologist. Such individuals shall be deemed
12 to be conducting their duties as an extension of the legal and
13 professional authority of the supervising psychologist and shall
14 not independently provide interpretive information or treatment
15 recommendations to clients or other health care professionals
16 prior to obtaining appropriate supervision. The department, with
17 the recommendation of the board, may adopt and promulgate rules
18 and regulations governing the conduct and supervision of persons
19 referred to in this subdivision, including the number of such
20 persons that may be supervised by a licensed psychologist. Persons
21 who have carried out the duties described in this subdivision
22 as part of their employment in institutions accredited by the
23 Department of Health and Human Services, the State Department
24 of Education, or the Department of Correctional Services for a
25 period of two years prior to September 1, 1994, may use the title

1 psychologist associate in the context of their employment in such
2 settings. Use of the title shall be restricted to duties described
3 in this subdivision, and the title shall be used in its entirety.
4 Partial or abbreviated use of the title and use of the title
5 beyond what is specifically authorized in this subdivision shall
6 constitute the unlicensed practice of psychology.

7 Sec. 1048. Section 71-1,206.15, Reissue Revised Statutes
8 of Nebraska, is amended to read:

9 ~~71-1,206.15~~ An applicant for licensure as a psychologist
10 shall:

11 (1) Possess a doctoral degree from a program of graduate
12 study in professional psychology from an institution of higher
13 education. The degree shall be obtained from a program of graduate
14 study in psychology that meets the standards of accreditation
15 adopted by the American Psychological Association. Any applicant
16 from a doctoral program in psychology that does not meet such
17 standards shall present a certificate of retraining from a program
18 of respecialization that does meet such standards;

19 (2) Prior to taking the examination, demonstrate that
20 he or she has completed two years of supervised professional
21 experience. One year of such experience shall be an internship
22 meeting the standards of accreditation adopted by the American
23 Psychological Association, and one year shall be supervised
24 postdoctoral experience. The criteria for appropriate supervision
25 shall be in accordance with rules and regulations adopted and

1 ~~promulgated~~ determined by the board. Postdoctoral experience shall
 2 be compatible with the knowledge and skills acquired during formal
 3 doctoral or postdoctoral education in accordance with professional
 4 requirements and relevant to the intended area of practice; and

5 (3) Pass an examination. The board shall approve and
 6 the board or department shall administer examinations to qualified
 7 applicants on at least an annual basis. The board shall determine
 8 the subject matter and scope of the examination and shall require a
 9 written, ~~and may require an oral,~~ examination, an oral examination,
 10 or both a written examination and an oral examination of each
 11 candidate for licensure. The board may ~~adopt~~ and approve a national
 12 standardized examination and any examination developed by the
 13 board.

14 Sec. 1049. Section 71-1,206.16, Reissue Revised Statutes
 15 of Nebraska, is amended to read:

16 ~~71-1,206.16~~ The ~~board~~ department may waive all or
 17 portions of the examination required by section ~~71-1,206.15~~ 1048
 18 of this act (1) if a psychologist has been licensed in another
 19 jurisdiction and if the requirements for licensure in that
 20 jurisdiction are equal to or exceed the requirements for licensure
 21 in Nebraska, (2) for psychologists meeting the requirements of
 22 section ~~71-1,206.20,~~ 1051 of this act, or (3) for an applicant who
 23 is board-certified in an area of professional psychology by the
 24 American Board of Professional Psychology.

25 Sec. 1050. Section 71-1,206.18, Revised Statutes

1 Cumulative Supplement, 2006, is amended to read:

2 ~~71-1,206.18 Except as provided in this section, a person~~
3 ~~licensed as a psychologist under the law in effect immediately~~
4 ~~prior to September 1, 1994, but not certified in clinical~~
5 ~~psychology.~~

6 (1) ~~Shall be issued a special license to practice~~
7 ~~psychology that continues existing requirements for supervision.~~
8 Any psychological practice that involves the diagnosis and
9 treatment of major mental and emotional disorders by a person
10 holding a special license shall be done under the supervision of
11 a licensed psychologist approved by the board in accordance with
12 ~~regulations developed as determined by the board.~~ A psychologist
13 ~~licensed under this subdivision~~ holding a special license shall
14 not supervise mental health practitioners or independently evaluate
15 persons under the Nebraska Mental Health Commitment Act or the
16 Sex Offender Commitment Act. ~~Supervisory relationships shall be~~
17 ~~registered with the board by a notarized letter signed by both the~~
18 ~~supervisor and supervisee. The letter~~

19 (2) An application for a supervisory relationship shall
20 be submitted to the department. The application shall contain:

21 (a) A general description of the supervisee's practice
22 and the plan of supervision;

23 (b) A statement by the supervisor that he or she has
24 the necessary experience and training to supervise this area of
25 practice; and

1 (c) A statement by the supervisor that he or she accepts
2 the legal and professional responsibility for the supervisee's
3 practice with individuals having major mental and emotional
4 disorders.

5 (3) Psychologists practicing with special licenses
6 may continue to use the title licensed psychologist but shall
7 disclose supervisory relationships to clients or patients for whom
8 supervision is required and to third-party payors when relevant.
9 Psychologists who wish to continue supervisory relationships
10 existing immediately prior to September 1, 1994, with qualified
11 physicians may do so if a letter as described in this ~~subdivision~~
12 is section as it existed prior to the operative date of this
13 section was received by the board within three months after such
14 date, September 1, 1994.

15 ~~(2) May apply for licensure before December 1, 1995,~~
16 ~~by demonstrating that he or she has rendered psychological~~
17 ~~diagnostic and treatment services as the major element of his or~~
18 ~~her employment in an educational, correctional, or health care~~
19 ~~setting for at least four years after licensure. A psychologist~~
20 ~~demonstrating such experience shall be deemed to have met~~
21 ~~equivalent requirements for licensure to those required by section~~
22 ~~71-1,206.15 and shall be eligible for renewal of licensure in~~
23 ~~accordance with the Uniform Licensing Law. For purposes of this~~
24 ~~subdivision.~~

25 ~~(a) Educational settings shall be those which are part~~

1 of a university or state college and those regulated by the State
2 Department of Education;

3 (b) Correctional settings shall be those under the
4 jurisdiction of the Department of Correctional Services; and

5 (c) Health care settings shall be hospitals, skilled
6 nursing facilities, clinics, and mental health centers licensed
7 by the Department of Health and Human Services Regulation and
8 Licensure and accredited by the Joint Commission on Hospital
9 Accreditation, by the Commission on Accreditation of Rehabilitation
10 Facilities, by the Department of Health and Human Services, or by
11 a similar or an equivalent accrediting body as determined by the
12 board.

13 The four-year period shall be continuous and represent
14 four years of full-time employment or a combination of half-time
15 and full-time employment that totals four years. For purposes
16 of this subdivision, year shall mean a calendar year except
17 for educational settings that may define the employment year in
18 nine-month increments. In no case shall an applicant receive four
19 years of credit for experience accrued in less than four calendar
20 years; or

21 (3) May apply for licensure within three months of
22 September 1, 1994, by demonstrating that he or she has been
23 employed as full-time faculty in a program of graduate education
24 in psychology approved by the American Psychological Association
25 for a period not less than five years after licensure. A

1 person demonstrating such employment shall be deemed to have
2 met equivalent requirements for licensure under section ~~71-1,206.15~~
3 and shall be eligible for renewal of licensure in accordance with
4 the Uniform Licensing Law.

5 A person licensed but not certified to practice clinical
6 psychology under the law in effect immediately prior to September
7 ~~1, 1994,~~ who has failed the examination for clinical certification
8 shall not be eligible to apply under subdivisions (2) and (3)
9 of this section. The board may deny an application under such
10 subdivisions if the applicant has had any action taken against him
11 or her for violations of the laws licensing psychologists by the
12 board or the boards of other jurisdictions. Such person shall be
13 granted a special license under subdivision (1) of this section.

14 Sec. 1051. Section 71-1,206.20, Reissue Revised Statutes
15 of Nebraska, is amended to read:

16 ~~71-1,206.20~~ Notwithstanding section ~~71-1,206.15,~~ 1048 of
17 this act, the board department shall license an applicant who:

18 (1) Has at least twenty years of licensure to practice
19 psychology in a United States or Canadian jurisdiction when the
20 license was based on a doctoral degree;

21 (2) Has had no disciplinary sanction during the entire
22 period of licensure; and

23 (3) Has passed the Nebraska board-developed examination.

24 Sec. 1052. Section 71-1,206.21, Reissue Revised Statutes
25 of Nebraska, is amended to read:

1 ~~71-1,206.21~~ Notwithstanding section ~~71-1,206.15,~~ 1048
2 of this act, the ~~board~~ department may issue a license as a
3 psychologist to any individual who qualifies for such a license
4 pursuant to an agreement of reciprocity entered into by the
5 department, with the recommendation of the board, with the board or
6 boards of another jurisdiction or multiple jurisdictions.

7 Sec. 1053. Section 71-1,206.22, Reissue Revised Statutes
8 of Nebraska, is amended to read:

9 ~~71-1,206.22~~ Nothing in sections ~~71-1,206.15~~ to
10 ~~71-1,206.21~~ the Psychology Practice Act shall be construed to
11 prohibit the practice of psychology in this state by a person
12 holding a doctoral degree in psychology from an institution of
13 higher education who is licensed as a psychologist under the laws
14 of another jurisdiction if the requirements for a license in the
15 other jurisdiction are equal to or exceed the requirements for
16 licensure in Nebraska and if the person provides no more than an
17 aggregate of thirty days of professional services as a psychologist
18 per year as defined in the rules and regulations. ~~of the board.~~
19 Psychologists practicing under this section shall notify the ~~board~~
20 department of the nature and location of their practice and provide
21 evidence of their licensure in another jurisdiction.

22 Upon determination that the applicant has met the
23 requirements of this section, the ~~board~~ department shall issue
24 a letter permitting the practice. An individual's permission to
25 practice under this section may be revoked if it is determined by

1 the department that he or she has engaged in conduct defined as
2 illegal, unprofessional, or unethical under the statutes, rules, or
3 regulations governing the practice of psychology in Nebraska.

4 Sec. 1054. Section 71-1,206.23, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,206.23~~ A psychologist licensed under the laws of
7 another jurisdiction may be authorized by the ~~board~~ department to
8 practice psychology for a maximum of one year if the psychologist
9 has made application to the ~~board~~ department for licensure and
10 has met the educational and experience requirements for licensure
11 in Nebraska, if the requirements for licensure in the former
12 jurisdiction are equal to or exceed the requirements for licensure
13 in Nebraska, and if the psychologist is not the subject of a past
14 or pending disciplinary action in another jurisdiction. Denial of
15 licensure shall terminate this authorization.

16 Sec. 1055. The department, with the recommendation of
17 the board, may issue a license based on licensure in another
18 jurisdiction to practice as a psychologist to a person who meets
19 the requirements of the Psychology Practice Act or substantially
20 equivalent requirements as determined by the department, with the
21 recommendation of the board.

22 Sec. 1056. Section 71-1,206.32, Reissue Revised Statutes
23 of Nebraska, is amended to read:

24 ~~71-1,206.32~~ A person who needs to obtain the required one
25 year of supervised postdoctoral experience in psychology pursuant

1 to subdivision (2) of section ~~71-1,206.15~~ 1048 of this act shall
2 obtain a provisional license to practice psychology. An applicant
3 for a provisional license to practice psychology shall:

4 (1) Have a doctoral degree from an institution of higher
5 education in a program of graduate study in professional psychology
6 that meets the standards of accreditation adopted by the American
7 Psychological Association or its equivalent. If the program is not
8 accredited by the American Psychological Association, it is the
9 responsibility of the applicant to provide evidence of equivalence.
10 Any applicant from a program that does not meet such standards
11 shall present a certificate of retraining from a program of
12 respecialization that does meet such standards;

13 (2) Have completed one year of supervised professional
14 experience in an internship as provided in subdivision (2) of
15 section ~~71-1,206.15~~, 1048 of this act;

16 ~~(3)(a) Apply within sixty days after August 28, 1999,~~
17 ~~if the applicant is then in the year of registered supervised~~
18 ~~postdoctoral experience on such date, or~~

19 ~~(b) Apply at any time after August 28, 1999, but~~
20 (3) Apply prior to beginning the year of registered supervised
21 postdoctoral experience; and if the applicant is not in such year
22 on such date;

23 ~~(4) Be of good moral character, and~~

24 ~~(5) (4) Submit to the department:~~

25 ~~(a) A verified complete application on a form provided by~~

1 ~~the department;~~

2 ~~(b)~~ (a) An official transcript showing proof of a
3 doctoral degree in psychology from an institution of higher
4 education;

5 ~~(e)~~ (b) A certified copy of the applicant's birth
6 certificate or other evidence of having attained the age of
7 ~~majority,~~ nineteen years; and

8 ~~(d)~~ (c) A registration of supervisory relationship
9 pursuant to ~~subdivision (1) of section 71-1,206.18;~~ and section
10 1050 of this act.

11 ~~(e)~~ The required provisional license fee as established
12 by the department.

13 Sec. 1057. Section 71-1,206.33, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 ~~71-1,206.33~~ The department shall approve or deny a
16 complete application for a provisional license to practice
17 psychology within one hundred fifty days after receipt of the
18 application.

19 Sec. 1058. Section 71-1,206.34, Revised Statutes
20 Cumulative Supplement, 2006, is amended to read:

21 ~~71-1,206.34~~ A psychologist practicing with a provisional
22 license shall use the title Provisionally Licensed Psychologist.
23 A provisionally licensed psychologist shall disclose supervisory
24 relationships to clients or patients for whom supervision is
25 required and to third parties when relevant. A provisionally

1 licensed psychologist shall not supervise other mental health
2 professionals or independently evaluate persons under the Nebraska
3 Mental Health Commitment Act or the Sex Offender Commitment Act.

4 Sec. 1059. Section 71-1,206.35, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 ~~71-1,206.35~~ A provisional license to practice psychology
7 expires upon receipt of a license to practice psychology or two
8 years after the date of issuance, whichever occurs first.

9 Sec. 1060. The department shall establish and collect
10 fees for credentialing under the Psychology Practice Act as
11 provided in sections 51 to 57 of this act.

12 Sec. 1061. In addition to the grounds for disciplinary
13 action found in sections 78 and 79 of this act, a credential
14 subject to the Psychology Practice Act may be denied, refused
15 renewal, limited, revoked, or suspended or have other disciplinary
16 measures taken against it in accordance with section 96 of this act
17 when the applicant or licensee fails to disclose the information
18 required by section 1058 of this act.

19 Sec. 1062. Section 71-1,206.24, Reissue Revised Statutes
20 of Nebraska, is amended to read:

21 ~~71-1,206.24~~ The board shall ensure through rules and
22 regulations and enforcement that psychologists limit their practice
23 to demonstrated areas of competence as documented by relevant
24 professional education, training, and experience.

25 Sec. 1063. Section 71-1,206.26, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,206.26~~ A psychologist and anyone under his or her
3 supervision shall conduct his or her professional activities in
4 conformity with the code of conduct. ~~Any person found guilty of~~
5 ~~or entering a plea of no contest to any of the acts or offenses~~
6 ~~specified in section 71-147 or 71-148 or violations of the code of~~
7 ~~conduct shall pay the cost of all expenses of investigation and~~
8 ~~prosecution of his or her case to the board.~~

9 Sec. 1064. Section 71-1,206.27, Reissue Revised Statutes
10 of Nebraska, is amended to read:

11 ~~71-1,206.27~~ (1) It shall be a violation of sections
12 ~~71-1,206.01 to 71-1,206.35~~ the Psychology Practice Act for any
13 person not licensed in accordance with ~~such sections~~ the act to
14 represent himself or herself as a psychologist. It shall be a
15 violation of ~~such sections~~ the act for any person not licensed in
16 accordance with ~~such sections~~ the act to engage in the practice of
17 psychology whether practicing as an individual, firm, partnership,
18 limited liability company, corporation, agency, or other entity.

19 (2) Any person who represents himself or herself as a
20 psychologist in violation of ~~such sections~~ the act or who engages
21 in the practice of psychology in violation of ~~such sections~~ the act
22 shall be guilty of a Class II misdemeanor. Each day of violation
23 shall constitute a separate offense.

24 (3) Any person filing or attempting to file, as his or
25 her own, a diploma or license of another or a forged affidavit of

1 identification shall be guilty of a Class IV felony.

2 It shall be unlawful for a person whose license to
3 practice psychology has been suspended or revoked to practice
4 psychology in this state. The board may issue, with or without
5 reexamination, a new license to such a person whenever it deems
6 such course safe and just.

7 Sec. 1065. Section 71-1,206.29, Reissue Revised Statutes
8 of Nebraska, is amended to read:

9 ~~71-1,206.29~~ (1) The confidential relations and
10 communications between psychologists and their clients and patients
11 shall be on the same basis as those between physicians and their
12 clients and patients as provided in section 27-504.

13 (2) In judicial proceedings, whether civil, criminal, or
14 juvenile, in legislative and administrative proceedings, and in
15 proceedings preliminary and ancillary thereto, a client or patient,
16 or his or her legal guardian or personal representative, may
17 refuse to disclose or may prevent the disclosure of confidential
18 information, including information contained in administrative
19 records, communicated to a psychologist, or to a person reasonably
20 believed by the client or patient to be a psychologist, or the
21 psychologist's or person's agents, for the purpose of diagnosis,
22 evaluation, or treatment of any mental and emotional disorder. In
23 the absence of evidence to the contrary, the psychologist shall be
24 presumed to be authorized to claim the privilege on the client's or
25 patient's behalf.

1 (3) This privilege may not be claimed by the client or
2 patient, or on his or her behalf by authorized persons, in the
3 following circumstances:

4 ~~(1)~~ (a) When abuse or harmful neglect of children,
5 the elderly, or disabled or incompetent individuals is known or
6 reasonably suspected;

7 ~~(2)~~ (b) When the validity of a will of a former client or
8 patient of the psychologist is contested;

9 ~~(3)~~ (c) When such information is necessary for the
10 psychologist to defend against a malpractice action brought by the
11 client or patient;

12 ~~(4)~~ (d) When an immediate threat of physical violence
13 against a readily identifiable victim is disclosed to the
14 psychologist;

15 ~~(5)~~ (e) When an immediate threat of self-inflicted injury
16 is disclosed to the psychologist;

17 ~~(6)~~ (f) When the client or patient, by alleging mental or
18 emotional damages in litigation, puts his or her mental state in
19 issue;

20 ~~(7)~~ (g) When the client or patient is examined pursuant
21 to court order;

22 ~~(8)~~ (h) When the purpose of the proceeding is to
23 substantiate and collect on a claim for mental or emotional
24 health services rendered to the client or patient or any other
25 cause of action arising out of the professional relationship; or

1 ~~(9)~~ (i) In the context of investigations and hearings
2 brought by the client or patient and conducted by the ~~board,~~
3 department, when violations of ~~sections 71-1,206.01 to 71-1,206.35~~
4 the Psychology Practice Act are at issue.

5 Sec. 1066. Section 71-1,206.30, Reissue Revised Statutes
6 of Nebraska, is amended to read:

7 ~~71-1,206.30~~ (1) No monetary liability and no cause of
8 action shall arise against any psychologist for failing to warn
9 of and protect from a client's or patient's threatened violent
10 behavior or failing to predict and warn of and protect from a
11 client's or patient's violent behavior except when the client
12 or patient has communicated to the psychologist a serious threat
13 of physical violence against a reasonably identifiable victim or
14 victims.

15 (2) The duty to warn of or to take reasonable precautions
16 to provide protection from violent behavior shall arise only under
17 the limited circumstances specified in subsection (1) of this
18 section. The duty shall be discharged by the psychologist if
19 reasonable efforts are made to communicate the threat to the victim
20 or victims and to a law enforcement agency.

21 (3) No monetary liability and no cause of action shall
22 arise against any person who is a psychologist for a confidence
23 disclosed to third parties in an effort to discharge a duty arising
24 under subsection (1) of this section in accordance with subsection
25 (2) of this section.

1 Sec. 1067. Sections 1067 to 1082 of this act shall be
2 known and may be cited as the Respiratory Care Practice Act.

3 Sec. 1068. For purposes of the Respiratory Care Practice
4 Act and elsewhere in the Uniform Credentialing Act, unless the
5 context otherwise requires, the definitions found in sections 1069
6 to 1072 of this act apply.

7 Sec. 1069. Board means the Board of Respiratory Care
8 Practice.

9 Sec. 1070. Medical director means a licensed physician
10 who has the qualifications as described in section 1080 of this
11 act.

12 Sec. 1071. Respiratory care means the health specialty
13 responsible for the treatment, management, diagnostic testing,
14 control, and care of patients with deficiencies and abnormalities
15 associated with the cardiopulmonary system. Respiratory care shall
16 not be limited to a hospital setting and shall include the
17 therapeutic and diagnostic use of medical gases, administering
18 apparatus, humidification and aerosols, ventilatory assistance and
19 ventilatory control, postural drainage, chest physiotherapy and
20 breathing exercises, respiratory rehabilitation, cardiopulmonary
21 resuscitation, and maintenance of nasal or oral endotracheal tubes.
22 Respiratory care shall also include the administration of aerosol
23 and inhalant medications to the cardiorespiratory system and
24 specific testing techniques employed in respiratory care to assist
25 in diagnosis, monitoring, treatment, and research. Such techniques

1 shall include, but not be limited to, measurement of ventilatory
2 volumes, pressures, and flows, measurement of physiologic partial
3 pressures, pulmonary function testing, and hemodynamic and other
4 related physiological monitoring of the cardiopulmonary system.

5 Sec. 1072. Section 71-1,227, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-1,227 As used in sections 71-1,227 to 71-1,236, unless~~
8 ~~the context otherwise requires:~~

9 ~~(1) Board shall mean the Board of Respiratory Care~~
10 ~~Practice;~~

11 ~~(2) Medical director shall mean a licensed physician who~~
12 ~~has the qualifications as described in section 71-1,229;~~

13 ~~(3) Respiratory care shall mean the health specialty~~
14 ~~responsible for the treatment, management, diagnostic testing,~~
15 ~~control, and care of patients with deficiencies and abnormalities~~
16 ~~associated with the cardiopulmonary system. Respiratory care shall~~
17 ~~not be limited to a hospital setting and shall include the~~
18 ~~therapeutic and diagnostic use of medical gases, administering~~
19 ~~apparatus, humidification and aerosols, ventilatory assistance and~~
20 ~~ventilatory control, postural drainage, chest physiotherapy and~~
21 ~~breathing exercises, respiratory rehabilitation, cardiopulmonary~~
22 ~~resuscitation, and maintenance of nasal or oral endotracheal~~
23 ~~tubes. It shall also include the administration of aerosol and~~
24 ~~inhalant medications to the cardiorespiratory system and specific~~
25 ~~testing techniques employed in respiratory care to assist in~~

1 diagnosis, monitoring, treatment, and research. Such techniques
 2 shall include, but not be limited to, measurement of ventilatory
 3 volumes, pressures, and flows, measurement of physiologic partial
 4 pressures, pulmonary function testing, and hemodynamic and other
 5 related physiological monitoring of the cardiopulmonary system, and

6 ~~(4) Respiratory care practitioner shall mean:~~ means:

7 ~~(a) (1)~~ (1) Any person employed in the practice of
 8 respiratory care who has the knowledge and skill necessary to
 9 administer respiratory care to patients of all ages with varied
 10 cardiopulmonary diseases and to patients in need of critical care
 11 and who is capable of serving as a resource to the physician and
 12 other health professionals in relation to the technical aspects
 13 of respiratory care including effective and safe methods for
 14 administering respiratory care; and

15 ~~(b) (2)~~ (2) A person capable of supervising, directing, or
 16 teaching less skilled personnel in the provision of respiratory
 17 care services.

18 Sec. 1073. Membership on the board shall consist of
 19 two respiratory care practitioners, one physician, and one public
 20 member.

21 Sec. 1074. Section 71-1,235, Reissue Revised Statutes of
 22 Nebraska, is amended to read:

23 ~~71-1,235 Sections 71-1,227 to 71-1,236~~ The Respiratory
 24 Care Practice Act shall not prohibit:

25 (1) The practice of respiratory care which is an integral

1 part of the program of study by students enrolled in approved
2 respiratory care education programs;

3 (2) The gratuitous care, including the practice of
4 respiratory care, of the ill by a friend or member of the
5 family or by a person who is not licensed to practice respiratory
6 care if such person does not represent himself or herself as a
7 respiratory care practitioner;

8 (3) The practice of respiratory care by nurses,
9 physicians, physician assistants, physical therapists, or any other
10 professional licensed under the Uniform ~~Licensing Law~~ Credentialing
11 Act when such practice is within the scope of practice for which
12 that person is licensed;

13 (4) The practice of any respiratory care practitioner of
14 this state or any other state or territory while employed by the
15 federal government or any bureau or division thereof while in the
16 discharge of his or her official duties;

17 (5) Techniques defined as pulmonary function testing
18 and the administration of aerosol and inhalant medications to
19 the cardiorespiratory system as it relates to pulmonary function
20 technology administered by a registered pulmonary function
21 technologist credentialed by the National Board for Respiratory
22 Care or a certified pulmonary function technologist credentialed by
23 the National Board for Respiratory Care; or

24 (6) The performance of oxygen therapy or the initiation
25 of noninvasive positive pressure ventilation by a registered

1 polysomnographic technologist relating to the study of sleep
2 disorders if such procedures are performed or initiated under
3 the supervision of a licensed physician at a facility accredited by
4 the American Academy of Sleep Medicine.

5 Sec. 1075. Section 71-1,231, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~71-1,231~~ (1) An applicant for a license to practice
8 respiratory care shall submit to the ~~board~~ department written
9 evidence, ~~verified by oath,~~ that the applicant has completed a
10 respiratory care educational program accredited by the ~~American~~
11 ~~Medical Association's Committee on Allied Health Education~~
12 ~~and Accreditation~~ Commission on Accreditation of Allied Health
13 Education Programs in collaboration with the ~~Joint Review Committee~~
14 ~~for Respiratory Therapy Education~~ Committee on Accreditation for
15 Respiratory Care or its successor or by an accrediting agency
16 approved by the ~~department.~~ board.

17 (2) In order to be licensed, initial applicants
18 shall pass an examination approved by ~~the department on the~~
19 ~~recommendation~~ of the board.

20 Sec. 1076. Section 71-1,233, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~71-1,233~~ The ~~board shall,~~ with the approval of the
23 department, with the recommendation of the board, shall issue
24 a license to perform respiratory care to an applicant who, on
25 or before July 17, 1986, has passed the Certified Respiratory

1 Therapy Technician or Registered Respiratory Therapist examination
2 administered by the National Board for Respiratory Care or the
3 appropriate accrediting agency acceptable to the ~~department~~ board.

4 Sec. 1077. An applicant for licensure to practice
5 respiratory care who has met the education and examination
6 requirements in section 1075 of this act, who passed the
7 examination more than three years prior to the time of application
8 for licensure, and who is not practicing at the time of application
9 for licensure shall present proof satisfactory to the department
10 that he or she has within the three years immediately preceding
11 the application for licensure completed continuing competency
12 requirements approved by the board pursuant to section 45 of this
13 act.

14 Sec. 1078. An applicant for licensure to practice
15 respiratory care who has met the standards set by the board
16 pursuant to section 26 of this act for a license based on licensure
17 in another jurisdiction but is not practicing at the time of
18 application for licensure shall present proof satisfactory to the
19 department that he or she has within the three years immediately
20 preceding the application for licensure completed continuing
21 competency requirements approved by the board pursuant to section
22 45 of this act.

23 Sec. 1079. The department shall establish and collect
24 fees for credentialing under the Respiratory Care Practice Act as
25 provided in sections 51 to 57 of this act.

1 Sec. 1080. Section 71-1,229, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~71-1,229~~ Any health care facility or home care agency
4 providing inpatient or outpatient respiratory care service shall
5 designate a medical director, who shall be a licensed physician who
6 has special interest and knowledge in the diagnosis and treatment
7 of respiratory problems. Such physician shall (1) be an active
8 medical staff member of a licensed health care facility, (2)
9 whenever possible be qualified by special training or experience
10 in the management of acute and chronic respiratory disorders, and
11 (3) be competent to monitor and assess the quality, safety, and
12 appropriateness of the respiratory care services which are being
13 provided. The medical director shall be accessible to and assure
14 the competency of respiratory care practitioners and shall require
15 that respiratory care be ordered by a physician who has medical
16 responsibility for any patient that needs such care.

17 Sec. 1081. Section 71-1,230, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~71-1,230~~ The practice of respiratory care shall be
20 performed only under the direction of a medical director and
21 upon the order of a licensed physician.

22 Sec. 1082. Section 71-1,236, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~71-1,236~~ In the event a respiratory care practitioner
25 renders respiratory care in a hospital or health care facility,

1 he or she shall be subject to the rules and regulations of
2 that facility. Such rules and regulations may include, but not
3 be limited to, reasonable requirements that the respiratory care
4 practitioner maintain professional liability insurance with such
5 coverage and limits as may be established by the hospital or other
6 health care facility upon the recommendation of the medical staff.

7 Sec. 1083. Section 71-1,153, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~71-1,153~~ Sections ~~71-1,152.01 to 71-1,166~~ 1083 to 1112 of
10 this act shall be known and may be cited as the ~~Nebraska~~ Veterinary
11 Medicine and Surgery Practice Act.

12 Sec. 1084. For purposes of the Veterinary Medicine and
13 Surgery Practice Act and elsewhere in the Uniform Credentialing
14 Act, unless the context otherwise requires, the definitions found
15 in sections 1085 to 1100 of this act apply.

16 Sec. 1085. Accredited school of veterinary medicine
17 means:

18 (1) One approved by the board;

19 (2) A veterinary college or division of a university or
20 college that offers the degree of Doctor of Veterinary Medicine or
21 its equivalent; and

22 (3) One that conforms to the standards required for
23 accreditation by the American Veterinary Medical Association.

24 Sec. 1086. Animal means any animal other than man and
25 includes birds, fish, and reptiles, wild or domestic, living or

1 dead, except domestic poultry.

2 Sec. 1087. Approved veterinary technician program means:

3 (1) One approved by the board;

4 (2) A school or college that offers the degree of
5 Veterinary Technician, a degree in veterinary technology, or the
6 equivalent; and

7 (3) One that conforms to the standards required for
8 accreditation by the American Veterinary Medical Association.

9 Sec. 1088. Board means the Board of Veterinary Medicine
10 and Surgery.

11 Sec. 1089. Direct supervision means that the supervisor
12 is on the premises and is available to the veterinary technician
13 or unlicensed assistant who is treating the animal and the animal
14 has been examined by a veterinarian at such times as acceptable
15 veterinary practice requires consistent with the particular
16 delegated animal health care task.

17 Sec. 1090. Immediate supervision means that the
18 supervisor is on the premises and is in direct eyesight and hearing
19 range of the animal and the veterinary technician or unlicensed
20 assistant who is treating the animal and the animal has been
21 examined by a veterinarian at such times as acceptable veterinary
22 practice requires consistent with the particular delegated animal
23 health care task.

24 Sec. 1091. Indirect supervision means that the supervisor
25 is not on the premises but is easily accessible and has given

1 written or oral instructions for treatment of the animal and
2 the animal has been examined by a veterinarian at such times
3 as acceptable veterinary practice requires consistent with the
4 particular delegated animal health care task.

5 Sec. 1092. Licensed veterinarian means a person who is
6 validly and currently licensed to practice veterinary medicine and
7 surgery in this state.

8 Sec. 1093. Licensed veterinary technician means an
9 individual who is validly and currently licensed as a veterinary
10 technician in this state.

11 Sec. 1094. Practice of veterinary medicine and surgery
12 means:

13 (1) To diagnose, treat, correct, change, relieve, or
14 prevent animal disease, deformity, defect, injury, or other
15 physical or mental conditions, including the prescription or
16 administration of any drug, medicine, biologic, apparatus,
17 application, anesthetic, or other therapeutic or diagnostic
18 substance or technique, and the use of any manual or mechanical
19 procedure for testing for pregnancy or fertility or for correcting
20 sterility or infertility. The acts described in this subdivision
21 shall not be done without a valid veterinarian-client-patient
22 relationship;

23 (2) To render advice or recommendation with regard to any
24 act described in subdivision (1) of this section;

25 (3) To represent, directly or indirectly, publicly or

1 privately, an ability and willingness to do any act described in
2 subdivision (1) of this section; and

3 (4) To use any title, words, abbreviation, or letters
4 in a manner or under circumstances which induce the belief that
5 the person using them is qualified to do any act described in
6 subdivision (1) of this section.

7 Sec. 1095. Supervisor means a licensed veterinarian or
8 licensed veterinary technician as required by statute or rule or
9 regulation for the particular delegated task being performed by a
10 veterinary technician or unlicensed assistant.

11 Sec. 1096. Unlicensed assistant means an individual who
12 is not a licensed veterinarian or a licensed veterinary technician
13 who is working in veterinary medicine.

14 Sec. 1097. Veterinarian means a person who has received a
15 degree of Doctor of Veterinary Medicine from an accredited school
16 of veterinary medicine or its equivalent.

17 Sec. 1098. Veterinarian-client-patient relationship means
18 that:

19 (1) The veterinarian has assumed the responsibility for
20 making clinical judgments regarding the health of the animal and
21 the need for medical treatment, and the client has agreed to follow
22 the veterinarian's instructions;

23 (2) The veterinarian has sufficient knowledge of the
24 animal to initiate at least a general or preliminary diagnosis
25 of the medical condition of the animal. This means that the

1 veterinarian has recently seen and is personally acquainted with
2 the keeping and care of the animal by virtue of an examination of
3 the animal or by medically appropriate and timely visits to the
4 premises where the animal is kept; and

5 (3) The veterinarian is readily available or has arranged
6 for emergency coverage and for followup evaluation in the event of
7 adverse reactions or the failure of the treatment regimen.

8 Sec. 1099. Veterinary medicine and surgery includes
9 veterinary surgery, obstetrics, dentistry, and all other branches
10 or specialties of veterinary medicine.

11 Sec. 1100. Veterinary technician means an individual who
12 has received a degree in veterinary technology from an approved
13 veterinary technician program or its equivalent.

14 Sec. 1101. The board shall consist of five members,
15 including three licensed veterinarians, one licensed veterinary
16 technician, and one public member.

17 Sec. 1102. Section 71-1,152.01, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 ~~71-1,152.01~~ The purpose of the Board of Veterinary
20 Medicine and Surgery board is to: (1) Provide for the health,
21 safety, and welfare of the citizens; (2) insure that veterinarians
22 and veterinary technicians serving the public meet minimum
23 standards of proficiency and competency; (3) insure that schools of
24 veterinary medicine and surgery and veterinary technician programs
25 meet the educational needs of the students and qualify students to

1 serve the public in a safe and efficient manner; and (4) control
2 the field of veterinary medicine and surgery in the interest of
3 consumer protection.

4 Sec. 1103. Section 71-1,155, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 ~~71-1,155~~ No person may practice veterinary medicine and
7 surgery in the state who is not a licensed veterinarian. The
8 ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act shall not be
9 construed to prohibit:

10 (1) An employee of the federal, state, or local
11 government from performing his or her official duties;

12 (2) A person who is a ~~regular~~ student in a veterinary
13 school from performing duties or actions assigned by his or her
14 instructors or from working under the direct supervision of a
15 licensed veterinarian; ~~during a school vacation period;~~

16 (3) A person who is a ~~regular~~ student in a ~~veterinary~~
17 ~~technician school~~ an approved veterinary technician program from
18 performing duties or actions assigned by his or her instructors
19 or from working under the direct supervision of a licensed
20 veterinarian ~~during a school vacation period;~~ or a licensed
21 veterinary technician;

22 (4) Any merchant or manufacturer from selling feed or
23 feeds whether medicated or nonmedicated;

24 (5) A veterinarian regularly licensed in another state
25 from consulting with a licensed veterinarian in this state;

1 (6) Any merchant or manufacturer from selling from his or
2 her established place of business medicines, appliances, or other
3 products used in the prevention or treatment of animal diseases
4 or any merchant or manufacturer's representative from conducting
5 educational meetings to explain the use of his or her products or
6 from investigating and advising on problems developing from the use
7 of his or her products;

8 (7) An owner of livestock or a bona fide farm or ranch
9 employee from performing any act of vaccination, surgery, pregnancy
10 testing, or the administration of drugs in the treatment of
11 domestic animals under his or her custody or ownership nor the
12 exchange of services between persons or bona fide employees who are
13 principally farm or ranch operators or employees in the performance
14 of these acts;

15 (8) A member of the faculty of a veterinary school
16 or veterinary science department from performing his or her
17 regular functions, or a person lecturing or giving instructions
18 or demonstrations at a veterinary school or veterinary science
19 department or in connection with a continuing competency activity;

20 (9) Any person from selling or applying any pesticide,
21 insecticide, or herbicide;

22 (10) Any person from engaging in bona fide scientific
23 research which reasonably requires experimentation involving
24 animals;

25 (11) Any person from treating or in any manner caring for

1 domestic chickens, turkeys, or waterfowl, which are specifically
2 exempted from the ~~Nebraska~~ Nebraska Veterinary Medicine and Surgery Practice
3 Act; or

4 (12) Any person from performing dehorning or castrating
5 livestock, not to include equidae.

6 For purposes of the ~~Nebraska~~ Nebraska Veterinary Medicine and
7 Surgery Practice Act, castration shall be limited to the removal or
8 destruction of male testes.

9 Sec. 1104. Section 71-1,158, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~71-1,158 (1) Any person desiring~~ Each applicant for a
12 license to practice veterinary medicine and surgery in this state
13 shall present to the department: make written application to the
14 board. The application shall include:

15 ~~(a) Proof that the applicant is twenty-one years of age~~
16 ~~or more;~~

17 ~~(b) Information indicating that the applicant is a person~~
18 ~~of good moral character;~~

19 ~~(c) (1) Proof that the applicant is a graduate of an~~
20 accredited school of veterinary medicine or holds a certificate
21 issued by an entity that determines educational equivalence
22 approved by the department upon recommendation of the board
23 indicating that the holder has demonstrated knowledge and skill
24 equivalent to that possessed by a graduate of an accredited college
25 of veterinary medicine; and

1 ~~(d)~~ (2) Proof that the applicant has passed an
2 examination approved by the board; and

3 (3) Such other information and proof as the department,
4 with the recommendation of the board, may require by rule and
5 regulation.

6 ~~(2) The application shall be accompanied by the required~~
7 ~~fee.~~

8 ~~(3) If the board determines that the applicant possesses~~
9 ~~the proper qualifications,~~ the board shall admit the applicant
10 to the next examination, or if the applicant is eligible for a
11 license without examination under section 71-1,160, the board may
12 forthwith recommend that he or she be issued a license. If an
13 applicant is found not qualified to take the examination or for a
14 license without examination, the board shall immediately notify the
15 applicant in writing of such finding and the grounds therefor.

16 Sec. 1105. Section 71-1,157, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~71-1,157~~ Any person holding a valid license to practice
19 veterinary medicine and surgery in this state on October 23,
20 1967, shall be recognized as a licensed veterinarian and shall be
21 entitled to retain such status so long as he or she complies with
22 the Nebraska Veterinary Medicine and Surgery Practice Act and the
23 provisions of the Uniform Licensing Law Credentialing Act relating
24 to veterinary medicine and surgery.

25 Sec. 1106. Section 71-1,163, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1,163~~ A license to practice veterinary medicine and
 3 surgery may be denied, refused renewal, limited, revoked, or
 4 suspended or have other disciplinary measures taken against it in
 5 accordance with section ~~71-155~~ 96 of this act when the applicant
 6 or licensee is guilty of any of the acts or offenses specified in
 7 sections ~~71-147 and 71-148~~ 78 and 79 of this act and for any of the
 8 following reasons:

9 (1) Fraud or dishonesty in the application or reporting
 10 of any test for disease in animals;

11 (2) Failure to keep veterinary premises and equipment in
 12 a clean and sanitary condition;

13 (3) Failure to report, as required by law, or making
 14 false report of, any contagious or infectious disease;

15 (4) Dishonesty or gross negligence in the inspection of
 16 foodstuffs or the issuance of health or inspection certificates; or

17 (5) Cruelty to animals.

18 Sec. 1107. Section 71-1,165, Reissue Revised Statutes of
 19 Nebraska, is amended to read:

20 ~~71-1,165~~ ~~(1)~~ To be a licensed veterinary technician
 21 in this state, an individual shall ~~meet one of the following~~
 22 ~~requirements:~~ ~~(a)~~ Be (1) be a graduate of an ~~American Veterinary~~
 23 ~~Medical Association~~ approved veterinary technician program and (2)
 24 receive a passing score on ~~the~~ a national examination ~~for such~~
 25 ~~program as determined~~ approved by the board. +

1 ~~(b) On July 13, 2000, be an approved animal technician~~
2 ~~certified under sections 71-1,168 to 71-1,185 as such sections~~
3 ~~existed prior to such date, or~~

4 ~~(c) Have at least five years or more full-time experience~~
5 ~~working with a veterinarian, be employed by a veterinarian on July~~
6 ~~13, 2000, and within three years after such date receive a passing~~
7 ~~score on the national examination described in subdivision (1)(a)~~
8 ~~of this section as determined by the board.~~

9 ~~(2) A veterinary technician license shall be renewed~~
10 ~~biennially. Each licensed veterinary technician shall be required~~
11 ~~to complete continuing competency activities as required by the~~
12 ~~board pursuant to section 71-161.09 as a prerequisite for the~~
13 ~~licensee's next subsequent license renewal.~~

14 Sec. 1108. Section 71-1,166, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~71-1,166~~ The department, with the recommendation of
17 the board, shall adopt and promulgate rules and regulations
18 providing for (1) licensure of veterinary technicians meeting the
19 requirements of section ~~71-1,165~~ 1107 of this act and (2) standards
20 for the level of supervision required for particular delegated
21 animal health care tasks and which determine which tasks may be
22 performed by a licensed veterinary technician and by unlicensed
23 assistants. The level of supervision may be immediate supervision,
24 direct supervision, or indirect supervision as determined by the
25 department, with the recommendation of the board, based upon the

1 complexity and requirements of the task.

2 Sec. 1109. (1) An applicant for a license to practice
3 veterinary medicine and surgery based on a license in another state
4 or territory of the United States, the District of Columbia, or
5 a Canadian province shall meet the standards set by the board
6 pursuant to section 26 of this act and shall have been actively
7 engaged in the practice of such profession at least one of the
8 three years immediately preceding the application under a license
9 in another state or territory of the United States, the District of
10 Columbia, or a Canadian province.

11 (2) An applicant for a license to practice as a licensed
12 veterinary technician based on a license in another state or
13 territory of the United States, the District of Columbia, or
14 a Canadian province shall meet the standards set by the board
15 pursuant to section 26 of this act and shall have been actively
16 engaged in the practice of such profession at least one of the
17 three years immediately preceding the application under a license
18 in another state or territory of the United States, the District of
19 Columbia, or a Canadian province.

20 Sec. 1110. The department shall establish and collect
21 fees for credentialing under the Veterinary Medicine and Surgery
22 Practice Act as provided in sections 51 to 57 of this act.

23 Sec. 1111. (1) Only a licensed veterinarian may advertise
24 or offer his or her services in a manner calculated to lead others
25 to believe that he or she is a licensed veterinarian.

1 (2) Only a licensed veterinary technician may advertise
2 or offer his or her services in a manner calculated to lead others
3 to believe that he or she is a licensed veterinary technician.

4 Sec. 1112. Section 71-1,164, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~71-1,164~~ Unless required by any state or local law for
7 contagious or infectious disease reporting or other public health
8 and safety purpose, no veterinarian licensed under the ~~Nebraska~~
9 Veterinary Medicine and Surgery Practice Act shall be required to
10 disclose any information concerning the veterinarian's care of an
11 animal except under a written authorization or other waiver by the
12 veterinarian's client or pursuant to a court order or a subpoena. A
13 veterinarian who releases information under a written authorization
14 or other waiver by the client or pursuant to a court order or
15 a subpoena is not liable to the client or any other person. The
16 privilege provided by this section is waived to the extent that
17 the veterinarian's client or the owner of the animal places the
18 veterinarian's care and treatment of the animal or the nature and
19 extent of injuries to the animal at issue in any civil or criminal
20 proceeding. For purposes of this section, veterinarian includes the
21 employees or agents of the licensed veterinarian while acting for
22 or on behalf of such veterinarian.

23 Sec. 1113. Section 12-1208, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 12-1208 (1) Upon notification pursuant to section

1 12-1206, the society shall promptly assist in examining the
2 discovered material to attempt to determine its origin and
3 identity.

4 (2) If the society finds that the discovered human
5 skeletal remains or burial goods are of non-American-Indian origin
6 with a known or unknown identity, it shall notify the county
7 attorney of the finding. Upon receipt of the finding, the county
8 attorney shall cause the remains and associated burial goods to be
9 interred in consultation with the county coroner. Reburial shall
10 be in accordance with the wishes and at the expense of any known
11 relatives in the order listed by section ~~71-1339~~ 561 of this
12 act or, if no relatives are known, in an appropriate cemetery at
13 the expense of the county in which the remains were discovered
14 after a one-year scientific study period if such study period
15 is considered necessary or desirable by the society. In no case
16 shall any human skeletal remains that are reasonably identifiable
17 as to familial or tribal origin be displayed by any entity which
18 receives funding or official recognition from the state or any of
19 its political subdivisions. In situations in which human skeletal
20 remains or burial goods that are unidentifiable as to familial
21 or tribal origin are clearly found to be of extremely important,
22 irreplaceable, and intrinsic scientific value, the remains or goods
23 may be curated by the society until the remains or goods may be
24 reinterred as provided in this subsection without impairing their
25 scientific value.

1 (3) If the society finds that the discovered human
2 skeletal remains or burial goods are of American Indian origin, it
3 shall promptly notify in writing the Commission on Indian Affairs
4 and any known relatives in the order listed in section ~~71-1339~~
5 561 of this act or, if no relatives are known, any Indian tribes
6 reasonably identified as tribally linked to such remains or goods
7 in order to ascertain and follow the wishes of the relative or
8 Indian tribe, if any, as to reburial or other disposition. Reburial
9 by any such relative or Indian tribe shall be by and at the expense
10 of such relative or Indian tribe. In cases in which reasonably
11 identifiable American Indian human skeletal remains or burial goods
12 are unclaimed by the appropriate relative or Indian tribe, the
13 society shall notify all other Indian tribes which can reasonably
14 be determined to have lived in Nebraska in order to ascertain and
15 follow the wishes of the tribe as to reburial or other disposition.
16 Reburial by any such tribe shall be by and at the expense of the
17 tribe. If such remains or goods are unclaimed by the appropriate
18 tribe, the remains or goods shall be reburied, as determined by the
19 commission, by one of the four federally recognized Indian tribes
20 in Nebraska.

21 Sec. 1114. Section 25-12,123, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 25-12,123 The proceedings and records of a peer review
24 committee of a state or local association or society composed
25 of health practitioners licensed pursuant to the ~~provisions~~

1 ~~of Chapter 71, article 1, Uniform Credentialing Act~~ shall be
2 held in confidence and shall not be subject to discovery or
3 introduction into evidence in any civil action against a person
4 licensed pursuant to ~~section 71-102~~ the act arising out of the
5 matters which are the subject of evaluation and review by such
6 committee. No person who was in attendance at a meeting of such
7 committee shall be permitted or required to testify in any such
8 civil action as to any evidence or other matters produced or
9 presented during the proceedings of such committee or as to any
10 findings, recommendations, evaluations, opinions, or other actions
11 of such committee or any members thereof, except that information,
12 documents, or records otherwise available from original sources
13 are not to be construed as immune from discovery or use in
14 any such civil action merely because they were presented during
15 proceedings of such committee. Any documents or records which have
16 been presented to the review committee by any witness shall be
17 returned to the witness, if requested by him or her or if ordered
18 to be produced by a court in any action, with copies thereof
19 to be retained by the committee at its discretion. Any person
20 who testifies before such committee or who is a member of such
21 committee shall not be prevented from testifying as to matters
22 within his or her knowledge, but such witness cannot be asked about
23 his or her testimony before such a committee or opinions formed as
24 a result of such committee hearings. Nothing in this section shall
25 prohibit a court of record, after a hearing and for good cause

1 arising from extraordinary circumstances being shown, from ordering
2 the disclosure of such proceedings, minutes, records, reports, or
3 communications.

4 Sec. 1115. Section 25-21,188.02, Revised Statutes
5 Cumulative Supplement, 2006, is amended to read:

6 25-21,188.02 (1) A person credentialed under the Uniform
7 ~~Licensing Law~~ Credentialing Act to practice as a physician,
8 osteopathic physician, pharmacist, dentist, physician assistant,
9 nurse, or physical therapist who, without the expectation or
10 receipt of monetary or other compensation either directly or
11 indirectly, provides professional services, of a kind which are
12 eligible for reimbursement under the medical assistance program
13 established pursuant to the Medical Assistance Act, as a volunteer
14 in a free clinic or other facility operated by a not-for-profit
15 organization as defined in section 25-21,190, by an agency of the
16 state, or by any political subdivision shall be immune from civil
17 liability for any act or omission which results in damage or injury
18 unless such damage or injury was caused by the willful or wanton
19 act or omission of such practitioner.

20 (2) The individual immunity granted by subsection (1)
21 of this section shall not extend to any act or omission of such
22 practitioner which results in damage or injury if:

23 (a) The free clinic or other facility is operated by a
24 licensed hospital;

25 (b) The practitioner has been disciplined by the

1 professional board having oversight over that practitioner in the
2 previous five years at the time of the act or omission causing
3 injury; or

4 (c) The damage or injury is caused by such practitioner
5 (i) during the operation of any motor vehicle, airplane, or boat
6 or (ii) while impaired by alcohol or any controlled substance
7 enumerated in section 28-405.

8 Sec. 1116. Section 25-21,247, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 25-21,247 (1) For purposes of this section, health care
11 payor shall include, but not be limited to:

12 (a) An insurer;

13 (b) A health maintenance organization;

14 (c) Medicare or medicaid;

15 (d) A legal entity which is self-insured and provides
16 health care benefits for its employees; or

17 (e) A person responsible for administering the payment of
18 health care expenses for another person or entity.

19 (2) Any health care payor or employee thereof who has
20 reasonable cause to believe that there has been a violation of
21 section ~~71-147~~ ~~or 71-148~~ 78 or 79 of this act or a fraudulent
22 insurance act described in the Insurance Fraud Act or section
23 28-631 may discuss or inquire of other health care payors about
24 such violation or act. Any health care payor or employee so
25 discussing or inquiring or responding to such an inquiry from

1 another health care payor shall be immune from criminal penalty
2 or from civil liability for slander, libel, defamation, or breach
3 of the physician-patient privilege if the discussion, inquiry, or
4 response is made in good faith without reckless disregard for the
5 truth.

6 Sec. 1117. Section 27-504, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 27-504 (1) As used in this rule:

9 (a) A patient is a person who consults or is examined or
10 interviewed by a physician for purposes of diagnosis or treatment
11 of his or her physical, mental, or emotional condition;

12 (b) A physician is (i) a person authorized to practice
13 medicine in any state or nation or who is reasonably believed by
14 the patient so to be or (ii) a person licensed as a psychologist
15 under the laws of any state or nation who devotes all or a part of
16 his or her time to the practice of psychology;

17 (c) A client is a person who consults or is interviewed
18 by a professional counselor for professional counseling as defined
19 in section ~~71-1,310~~, 736 of this act;

20 (d) A professional counselor is a person certified as a
21 professional counselor pursuant to ~~sections 71-1,310, 71-1,324 to~~
22 ~~71-1,328, and 71-1,333~~, section 749 of this act; and

23 (e) A communication is confidential if not intended to be
24 disclosed to third persons other than those present to further the
25 interest of (i) the patient in the consultation, examination, or

1 interview, persons reasonably necessary for the transmission of the
2 communication, or persons who are participating in the diagnosis
3 and treatment under the direction of the physician, including
4 members of the patient's family, or (ii) the client participating
5 in professional counseling by a professional counselor.

6 (2) (a) A patient has a privilege to refuse to disclose
7 and to prevent any other person from disclosing confidential
8 communications made for the purposes of diagnosis or treatment of
9 his or her physical, mental, or emotional condition among himself
10 or herself, his or her physician, or persons who are participating
11 in the diagnosis or treatment under the direction of the physician,
12 including members of the patient's family.

13 (b) A client has a privilege to refuse to disclose
14 and to prevent any other person from disclosing confidential
15 communications made during counseling between himself or herself,
16 his or her professional counselor, or persons who are participating
17 in the counseling under the direction of the professional
18 counselor, including members of the client's family.

19 (3) The privilege may be claimed by the patient or
20 client, by his or her guardian or conservator, or by the personal
21 representative of a deceased patient or client. The person who was
22 the physician or professional counselor may claim the privilege but
23 only on behalf of the patient or client. His or her authority so to
24 do is presumed in the absence of evidence to the contrary.

25 (4) (a) There is no privilege under this rule for

1 communications relevant to an issue in proceedings to hospitalize
2 the patient for physical, mental, or emotional illness if the
3 physician, in the course of diagnosis or treatment, has determined
4 that the patient is in need of hospitalization or if a professional
5 counselor deems it necessary to refer a client to determine if
6 there is need for hospitalization.

7 (b) If the judge orders an examination of the physical,
8 mental, or emotional condition of the patient, communications made
9 in the course thereof are not privileged under this rule with
10 respect to the particular purpose for which the examination is
11 ordered unless the judge orders otherwise.

12 (c) There is no privilege under this rule as to
13 communications relevant to an issue of the physical, mental,
14 or emotional condition of the patient in any proceeding in which
15 he or she relies upon the condition as an element of his or her
16 claim or defense or, after the patient's death, in any proceeding
17 in which any party relies upon the condition as an element of his
18 or her claim or defense.

19 (d) There is no privilege under this rule in any judicial
20 proceedings under the Nebraska Juvenile Code regarding injuries
21 to children, incompetents, or disabled persons or in any criminal
22 prosecution involving injury to any such person or the willful
23 failure to report any such injuries.

24 (e) There is no privilege under this rule in any judicial
25 proceeding regarding unlawfully obtaining or attempting to obtain

1 (i) a controlled substance, (ii) a written or oral prescription for
2 a controlled substance, or (iii) the administration of a controlled
3 substance from a practitioner. For purposes of this subdivision,
4 the definitions found in section 28-401 shall apply.

5 Sec. 1118. Section 28-328, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 28-328 (1) No partial-birth abortion shall be performed
8 in this state, unless such procedure is necessary to save the life
9 of the mother whose life is endangered by a physical disorder,
10 physical illness, or physical injury, including a life-endangering
11 physical condition caused by or arising from the pregnancy itself.

12 (2) The intentional and knowing performance of an
13 unlawful partial-birth abortion in violation of subsection (1) of
14 this section is a Class III felony.

15 (3) No woman upon whom an unlawful partial-birth abortion
16 is performed shall be prosecuted under this section or for
17 conspiracy to violate this section.

18 (4) The intentional and knowing performance of an
19 unlawful partial-birth abortion shall result in the automatic
20 suspension and revocation of an attending physician's license to
21 practice medicine in Nebraska by the Director of Regulation and
22 Licensure pursuant to sections ~~71-147 to 71-161.20~~ 77 to 102 of
23 this act.

24 (5) Upon the filing of criminal charges under this
25 section by the Attorney General or a county attorney, the Attorney

1 General shall also file a petition to suspend and revoke the
2 attending physician's license to practice medicine pursuant to
3 section ~~71-150-~~ 86 of this act. A hearing on such administrative
4 petition shall be set in accordance with section ~~71-153-~~ 88
5 of this act. At such hearing, the attending physician shall
6 have the opportunity to present evidence that the physician's
7 conduct was necessary to save the life of a mother whose life was
8 endangered by a physical disorder, physical illness, or physical
9 injury, including a life-endangering physical condition caused by
10 or arising from the pregnancy itself. A defendant against whom
11 criminal charges are brought under this section may bring a motion
12 to delay the beginning of the trial until after the entry of
13 an order by the Director of Regulation and Licensure pursuant to
14 section ~~71-155-~~ 96 of this act. The findings of the Director of
15 Regulation and Licensure as to whether the attending physician's
16 conduct was necessary to save the life of a mother whose life was
17 endangered by a physical disorder, physical illness, or physical
18 injury, including a life-endangering physical condition caused by
19 or arising from the pregnancy itself, shall be admissible in the
20 criminal proceedings brought pursuant to this section.

21 Sec. 1119. Section 28-401, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 28-401 As used in the Uniform Controlled Substances Act,
24 unless the context otherwise requires:

25 (1) Administer shall mean to directly apply a controlled

1 substance by injection, inhalation, ingestion, or any other means
2 to the body of a patient or research subject;

3 (2) Agent shall mean an authorized person who acts on
4 behalf of or at the direction of another person but shall not
5 include a common or contract carrier, public warehouse keeper, or
6 employee of a carrier or warehouse keeper;

7 (3) Administration shall mean the Drug Enforcement
8 Administration, United States Department of Justice;

9 (4) Controlled substance shall mean a drug, biological,
10 substance, or immediate precursor in Schedules I to V of section
11 28-405. Controlled substance shall not include distilled spirits,
12 wine, malt beverages, tobacco, or any nonnarcotic substance if such
13 substance may, under the Federal Food, Drug, and Cosmetic Act, 21
14 U.S.C. 301 et seq., as such act existed on January 1, 2003, and
15 the law of this state, be lawfully sold over the counter without a
16 prescription;

17 (5) Counterfeit substance shall mean a controlled
18 substance which, or the container or labeling of which, without
19 authorization, bears the trademark, trade name, or other
20 identifying mark, imprint, number, or device, or any likeness
21 thereof, of a manufacturer, distributor, or dispenser other than
22 the person or persons who in fact manufactured, distributed, or
23 dispensed such substance and which thereby falsely purports or is
24 represented to be the product of, or to have been distributed by,
25 such other manufacturer, distributor, or dispenser;

1 (6) Department shall mean the Department of Health and
2 Human Services Regulation and Licensure;

3 (7) Division of Drug Control shall mean the personnel of
4 the Nebraska State Patrol who are assigned to enforce the Uniform
5 Controlled Substances Act;

6 (8) Dispense shall mean to deliver a controlled substance
7 to an ultimate user or a research subject pursuant to a medical
8 order issued by a practitioner authorized to prescribe, including
9 the packaging, labeling, or compounding necessary to prepare the
10 controlled substance for such delivery;

11 (9) Distribute shall mean to deliver other than by
12 administering or dispensing a controlled substance;

13 (10) Prescribe shall mean to issue a medical order;

14 (11) Drug shall mean (a) articles recognized in
15 the official United States Pharmacopoeia, official Homeopathic
16 Pharmacopoeia of the United States, official National Formulary,
17 or any supplement to any of them, (b) substances intended for use
18 in the diagnosis, cure, mitigation, treatment, or prevention of
19 disease in human beings or animals, and (c) substances intended for
20 use as a component of any article specified in subdivision (a) or
21 (b) of this subdivision, but shall not include devices or their
22 components, parts, or accessories;

23 (12) Deliver or delivery shall mean the actual,
24 constructive, or attempted transfer from one person to another
25 of a controlled substance, whether or not there is an agency

1 relationship;

2 (13) Marijuana shall mean all parts of the plant of
3 the genus cannabis, whether growing or not, the seeds thereof,
4 and every compound, manufacture, salt, derivative, mixture, or
5 preparation of such plant or its seeds, but shall not include
6 the mature stalks of such plant, hashish, tetrahydrocannabinols
7 extracted or isolated from the plant, fiber produced from such
8 stalks, oil or cake made from the seeds of such plant, any other
9 compound, manufacture, salt, derivative, mixture, or preparation of
10 such mature stalks, or the sterilized seed of such plant which is
11 incapable of germination. When the weight of marijuana is referred
12 to in the Uniform Controlled Substances Act, it shall mean its
13 weight at or about the time it is seized or otherwise comes into
14 the possession of law enforcement authorities, whether cured or
15 uncured at that time;

16 (14) Manufacture shall mean the production, preparation,
17 propagation, compounding, conversion, or processing of a controlled
18 substance, either directly or indirectly, by extraction from
19 substances of natural origin, independently by means of chemical
20 synthesis, or by a combination of extraction and chemical
21 synthesis, and shall include any packaging or repackaging of the
22 substance or labeling or relabeling of its container. Manufacture
23 shall not include the preparation or compounding of a controlled
24 substance by an individual for his or her own use, except for the
25 preparation or compounding of components or ingredients used for or

1 intended to be used for the manufacture of methamphetamine, or the
2 preparation, compounding, conversion, packaging, or labeling of a
3 controlled substance: (a) By a practitioner as an incident to his
4 or her prescribing, administering, or dispensing of a controlled
5 substance in the course of his or her professional practice; or
6 (b) by a practitioner, or by his or her authorized agent under
7 his or her supervision, for the purpose of, or as an incident to,
8 research, teaching, or chemical analysis and not for sale;

9 (15) Narcotic drug shall mean any of the following,
10 whether produced directly or indirectly by extraction from
11 substances of vegetable origin, independently by means of chemical
12 synthesis, or by a combination of extraction and chemical
13 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,
14 and opiates; (b) a compound, manufacture, salt, derivative, or
15 preparation of opium, coca leaves, or opiates; or (c) a substance
16 and any compound, manufacture, salt, derivative, or preparation
17 thereof which is chemically equivalent to or identical with any
18 of the substances referred to in subdivisions (a) and (b) of this
19 subdivision, except that the words narcotic drug as used in the
20 Uniform Controlled Substances Act shall not include decocainized
21 coca leaves or extracts of coca leaves, which extracts do not
22 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

23 (16) Opiate shall mean any substance having an
24 addiction-forming or addiction-sustaining liability similar to
25 morphine or being capable of conversion into a drug having

1 such addiction-forming or addiction-sustaining liability. Opiate
2 shall not include the dextrorotatory isomer of 3-methoxy-n
3 methylmorphinan and its salts. Opiate shall include its racemic and
4 levorotatory forms;

5 (17) Opium poppy shall mean the plant of the species
6 *Papaver somniferum* L., except the seeds thereof;

7 (18) Poppy straw shall mean all parts, except the seeds,
8 of the opium poppy after mowing;

9 (19) Person shall mean any corporation, association,
10 partnership, limited liability company, or one or more individuals;

11 (20) Practitioner shall mean a physician, a physician
12 assistant, a dentist, a veterinarian, a pharmacist, a podiatrist,
13 an optometrist, a certified nurse midwife, a certified registered
14 nurse anesthetist, a nurse practitioner, a scientific investigator,
15 a pharmacy, a hospital, or any other person licensed, registered,
16 or otherwise permitted to distribute, dispense, prescribe, conduct
17 research with respect to, or administer a controlled substance in
18 the course of practice or research in this state, including an
19 emergency medical service as defined in section ~~71-5175~~, 491 of
20 this act;

21 (21) Production shall include the manufacture, planting,
22 cultivation, or harvesting of a controlled substance;

23 (22) Immediate precursor shall mean a substance which is
24 the principal compound commonly used or produced primarily for use
25 and which is an immediate chemical intermediary used or likely

1 to be used in the manufacture of a controlled substance, the
2 control of which is necessary to prevent, curtail, or limit such
3 manufacture;

4 (23) State shall mean the State of Nebraska;

5 (24) Ultimate user shall mean a person who lawfully
6 possesses a controlled substance for his or her own use, for the
7 use of a member of his or her household, or for administration
8 to an animal owned by him or her or by a member of his or her
9 household;

10 (25) Hospital shall have the same meaning as in section
11 71-419;

12 (26) Cooperating individual shall mean any person, other
13 than a commissioned law enforcement officer, who acts on behalf of,
14 at the request of, or as agent for a law enforcement agency for the
15 purpose of gathering or obtaining evidence of offenses punishable
16 under the Uniform Controlled Substances Act;

17 (27) Hashish or concentrated cannabis shall mean: (a) The
18 separated resin, whether crude or purified, obtained from a plant
19 of the genus cannabis; or (b) any material, preparation, mixture,
20 compound, or other substance which contains ten percent or more by
21 weight of tetrahydrocannabinols;

22 (28) Exceptionally hazardous drug shall mean (a)
23 a narcotic drug, (b) thiophene analog of phencyclidine,
24 (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f)
25 pentobarbital, (g) amphetamine, or (h) methamphetamine;

1 (29) Imitation controlled substance shall mean a
2 substance which is not a controlled substance but which, by way
3 of express or implied representations and consideration of other
4 relevant factors including those specified in section 28-445,
5 would lead a reasonable person to believe the substance is a
6 controlled substance. A placebo or registered investigational drug
7 manufactured, distributed, possessed, or delivered in the ordinary
8 course of practice or research by a health care professional shall
9 not be deemed to be an imitation controlled substance;

10 (30)(a) Controlled substance analogue shall mean a
11 substance (i) the chemical structure of which is substantially
12 similar to the chemical structure of a Schedule I or Schedule
13 II controlled substance as provided in section 28-405 or (ii)
14 which has a stimulant, depressant, analgesic, or hallucinogenic
15 effect on the central nervous system that is substantially similar
16 to or greater than the stimulant, depressant, analgesic, or
17 hallucinogenic effect on the central nervous system of a Schedule I
18 or Schedule II controlled substance as provided in section 28-405.
19 A controlled substance analogue shall, to the extent intended for
20 human consumption, be treated as a controlled substance under
21 Schedule I of section 28-405 for purposes of the Uniform Controlled
22 Substances Act; and

23 (b) Controlled substance analogue shall not include (i)
24 a controlled substance, (ii) any substance generally recognized as
25 safe and effective within the meaning of the Federal Food, Drug,

1 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on
2 January 1, 2003, (iii) any substance for which there is an approved
3 new drug application, or (iv) with respect to a particular person,
4 any substance if an exemption is in effect for investigational use
5 for that person, under section 505 of the Federal Food, Drug, and
6 Cosmetic Act, 21 U.S.C. 355, as such section existed on January
7 1, 2003, to the extent conduct with respect to such substance is
8 pursuant to such exemption;

9 (31) Anabolic steroid shall mean any drug or hormonal
10 substance, chemically and pharmacologically related to testosterone
11 (other than estrogens, progestins, and corticosteroids), that
12 promotes muscle growth and includes any controlled substance in
13 Schedule III(d) of section 28-405. Anabolic steroid shall not
14 include any anabolic steroid which is expressly intended for
15 administration through implants to cattle or other nonhuman species
16 and has been approved by the Secretary of Health and Human Services
17 for such administration, but if any person prescribes, dispenses,
18 or distributes such a steroid for human use, such person shall
19 be considered to have prescribed, dispensed, or distributed an
20 anabolic steroid within the meaning of this subdivision;

21 (32) Chart order shall mean an order for a controlled
22 substance issued by a practitioner for a patient who is in the
23 hospital where the chart is stored or for a patient receiving
24 detoxification treatment or maintenance treatment pursuant to
25 section 28-412. Chart order shall not include a prescription;

1 (33) Medical order shall mean a prescription, a
2 chart order, or an order for pharmaceutical care issued by a
3 practitioner;

4 (34) Prescription shall mean an order for a controlled
5 substance issued by a practitioner. Prescription shall not include
6 a chart order;

7 (35) Registrant shall mean any person who has a
8 controlled substances registration issued by the state or the
9 administration;

10 (36) Reverse distributor shall mean a person whose
11 primary function is to act as an agent for a pharmacy, wholesaler,
12 manufacturer, or other entity by receiving, inventorying, and
13 managing the disposition of outdated, expired, or otherwise
14 nonsaleable controlled substances;

15 (37) Signature shall mean the name, word, or mark of
16 a person written in his or her own hand with the intent to
17 authenticate a writing or other form of communication or a digital
18 signature which complies with section 86-611 or an electronic
19 signature;

20 (38) Facsimile shall mean a copy generated by a
21 system that encodes a document or photograph into electrical
22 signals, transmits those signals over telecommunications lines,
23 and reconstructs the signals to create an exact duplicate of the
24 original document at the receiving end;

25 (39) Electronic signature shall have the definition found

1 in section 86-621; and

2 (40) Electronic transmission shall mean transmission
3 of information in electronic form. Electronic transmission may
4 include computer-to-computer transmission or computer-to-facsimile
5 transmission.

6 Sec. 1120. Section 28-401.01, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 28-401.01 Sections 28-401 to 28-456.01 and sections 1123
9 to 1126 of this act shall be known and may be cited as the Uniform
10 Controlled Substances Act.

11 Sec. 1121. Section 28-409, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 28-409 (1) A registration pursuant to section 28-408
14 to prescribe, administer, manufacture, distribute, or dispense a
15 controlled substance may be denied, suspended, revoked, or renewal
16 refused by the department upon a finding that the applicant or
17 registrant:

18 (a) Has falsified any application filed pursuant to the
19 Uniform Controlled Substances Act or required by the act;

20 (b) Has been convicted of a felony subsequent to being
21 granted a registration pursuant to section 28-408 under any law
22 of the United States or of any state or has been convicted of
23 a violation relating to any substance defined in the act as a
24 controlled substance subsequent to being granted a registration
25 pursuant to section 28-408 under any law of the United States or of

1 any state;

2 (c) Has had his or her federal registration suspended or
3 revoked by competent federal authority and is no longer authorized
4 by federal law to engage in the prescribing, manufacturing,
5 distribution, or dispensing of controlled substances;

6 (d) Is guilty of any of the acts or offenses listed in
7 section ~~71-147~~ 78 of this act for which disciplinary measures may
8 be taken against his or her license, certificate, or registration
9 to practice and which have a rational connection with his or
10 her fitness to prescribe, administer, or dispense a controlled
11 substance. The department may automatically revoke or suspend the
12 registration of a practitioner who has had his or her license,
13 certificate, or registration to practice revoked or suspended and
14 is no longer authorized to prescribe, administer, or dispense
15 under the laws of this state or who has had his or her license,
16 certificate, or registration to practice limited or restricted
17 and is no longer authorized to prescribe, administer, or dispense
18 controlled substances under the laws of this state;

19 (e) Is habitually intoxicated or is dependent upon or
20 actively addicted to alcohol or any controlled substance or
21 narcotic drug; or

22 (f) Has violated the Uniform Controlled Substances Act or
23 any rules or regulations adopted and promulgated pursuant to the
24 act.

25 (2) The department may limit revocation or suspension of

1 a registration to the particular controlled substance with respect
2 to which grounds for revocation or suspension exist.

3 (3) A person whose registration or renewal has been
4 denied, revoked, or suspended shall be afforded an opportunity
5 for a hearing in accordance with the Administrative Procedure
6 Act. Such proceedings shall be independent of, and not in
7 lieu of, criminal prosecutions or other proceedings under the
8 Uniform Controlled Substances Act or any law of the state, except
9 that such proceedings may be consolidated with proceedings under
10 ~~section 71-155 or sections 71-161.12 to 71-161.18.~~ the Uniform
11 Credentialing Act. Proceedings to refuse renewal of registration
12 shall not abate the existing registration which shall remain in
13 effect pending the outcome of the administrative hearing, except in
14 cases when the department finds that there is an imminent danger to
15 the public health or safety.

16 (4) The department may suspend any registration
17 simultaneously with the institution of proceedings under this
18 section or when renewal of registration is refused in cases when
19 the department finds that there is an imminent danger to the
20 public health or safety. Such suspension shall continue in effect
21 until the conclusion of such proceedings, including judicial review
22 thereof, unless sooner withdrawn by the department or dissolved by
23 a court of competent jurisdiction.

24 (5) In the event the department suspends or revokes
25 a registration granted under section 28-408, all controlled

1 substances owned or possessed by the registrant pursuant to such
2 registration at the time of suspension or the effective date of
3 the revocation order, as the case may be, may in the discretion of
4 the department be placed under seal. No disposition may be made
5 of substances under seal until the time for taking an appeal has
6 elapsed or until all appeals have been concluded unless a court,
7 upon application therefor, orders the sale of perishable substances
8 and the deposit of the proceeds of the sale with the court. Upon a
9 revocation order becoming final, all such controlled substances may
10 be forfeited to the state.

11 (6) The administration shall be promptly notified of all
12 orders limiting, suspending, or revoking registration.

13 Sec. 1122. Section 28-414, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 28-414 (1)(a) Except as otherwise provided in this
16 subsection or section 28-412 or when administered directly by
17 a practitioner to an ultimate user, a controlled substance listed
18 in Schedule II of section 28-405 shall not be dispensed without
19 the written prescription bearing the signature of a practitioner
20 authorized to prescribe. No medical order for a controlled
21 substance listed in Schedule II of section 28-405 shall be filled
22 more than six months from the date of issuance. A prescription
23 for a controlled substance listed in Schedule II of section 28-405
24 shall not be refilled.

25 (b) In emergency situations as defined by rule and

1 regulation of the department, a controlled substance listed in
2 Schedule II of section 28-405 may be dispensed pursuant to a
3 facsimile of a written, signed prescription bearing the word
4 "emergency" or pursuant to an oral prescription reduced to writing
5 in accordance with subdivision (3)(b) of this section, except for
6 the prescribing practitioner's signature, and bearing the word
7 "emergency".

8 (c) In nonemergency situations:

9 (i) A controlled substance listed in Schedule II of
10 section 28-405 may be dispensed pursuant to a facsimile of
11 a written, signed prescription if the original written, signed
12 prescription is presented to the pharmacist for review before
13 the controlled substance is dispensed, except as provided in
14 subdivision (1)(c)(ii) or (1)(c)(iii) of this section;

15 (ii) A narcotic drug listed in Schedule II of section
16 28-405 may be dispensed pursuant to a facsimile of a written,
17 signed prescription (A) to be compounded for direct parenteral
18 administration to a patient for the purpose of home infusion
19 therapy or (B) for administration to a patient in a hospice
20 licensed under the Health Care Facility Licensure Act or certified
21 under Title XVIII of the federal Social Security Act, as such title
22 existed on May 1, 2001, and bearing the words "hospice patient";

23 (iii) A controlled substance listed in Schedule II of
24 section 28-405 may be dispensed pursuant to a facsimile of a
25 written, signed prescription for administration to a resident of a

1 long-term care facility; and

2 (iv) For purposes of subdivisions (1)(c)(ii) and
3 (1)(c)(iii) of this section, a facsimile of a written, signed
4 prescription shall serve as the original written prescription and
5 shall be maintained in accordance with subdivision (3)(a) of this
6 section.

7 (d)(i) A prescription for a controlled substance listed
8 in Schedule II of section 28-405 may be partially filled if the
9 pharmacist does not supply the full quantity prescribed and he
10 or she makes a notation of the quantity supplied on the face of
11 the prescription. The remaining portion of the prescription may
12 be filled within seventy-two hours of the first partial filling.
13 The pharmacist shall notify the prescribing practitioner if the
14 remaining portion of the prescription is not or cannot be filled
15 within such period. No further quantity may be supplied after such
16 period without a new written, signed prescription.

17 (ii) A prescription for a controlled substance listed in
18 Schedule II of section 28-405 written for a patient in a long-term
19 care facility or for a patient with a medical diagnosis documenting
20 a terminal illness may be partially filled. Such prescription
21 shall bear the words "terminally ill" or "long-term care facility
22 patient" on its face. If there is any question whether a patient
23 may be classified as having a terminal illness, the pharmacist
24 shall contact the prescribing practitioner prior to partially
25 filling the prescription. Both the pharmacist and the prescribing

1 practitioner have a corresponding responsibility to assure that the
2 controlled substance is for a terminally ill patient. For each
3 partial filling, the dispensing pharmacist shall record on the back
4 of the prescription or on another appropriate record, uniformly
5 maintained and readily retrievable, the date of the partial
6 filling, quantity dispensed, remaining quantity authorized to be
7 dispensed, and the identification of the dispensing pharmacist. The
8 total quantity of controlled substances listed in Schedule II which
9 is dispensed in all partial fillings shall not exceed the total
10 quantity prescribed. A prescription for a Schedule II controlled
11 substance for a patient in a long-term care facility or a patient
12 with a medical diagnosis documenting a terminal illness is valid
13 for sixty days from the date of issuance or until discontinuance of
14 the prescription, whichever occurs first.

15 (2) (a) Except as otherwise provided in this subsection
16 or when administered directly by a practitioner to an ultimate
17 user, a controlled substance listed in Schedule III, IV, or V of
18 section 28-405 shall not be dispensed without a written or oral
19 medical order. Such medical order is valid for six months after
20 the date of issuance. Authorization from a practitioner authorized
21 to prescribe is required to refill a prescription for a controlled
22 substance listed in Schedule III, IV, or V of section 28-405.
23 Such prescriptions shall not be refilled more than five times
24 within six months after the date of issuance. Original prescription
25 information for any controlled substance listed in Schedule III,

1 IV, or V of section 28-405 may be transferred between pharmacies
2 for purposes of refill dispensing pursuant to section ~~71-1,146.02-~~
3 967 of this act.

4 (b) A controlled substance listed in Schedule III, IV, or
5 V of section 28-405 may be dispensed pursuant to a facsimile of
6 a written, signed prescription. The facsimile of a written, signed
7 prescription shall serve as the original written prescription for
8 purposes of this subsection and shall be maintained in accordance
9 with the provisions of subdivision (3)(c) of this section.

10 (c) A prescription for a controlled substance listed in
11 Schedule III, IV, or V of section 28-405 may be partially filled
12 if (i) each partial filling is recorded in the same manner as
13 a refilling, (ii) the total quantity dispensed in all partial
14 fillings does not exceed the total quantity prescribed, and (iii)
15 each partial filling is dispensed within six months after the
16 prescription was issued.

17 (3)(a) Prescriptions for all controlled substances listed
18 in Schedule II of section 28-405 shall be kept in a separate
19 file by the dispensing practitioner and shall be maintained for
20 a minimum of five years. The practitioner shall make all such
21 files readily available to the department and law enforcement for
22 inspection without a search warrant.

23 (b) All prescriptions for controlled substances listed
24 in Schedule II of section 28-405 shall contain the name and
25 address of the patient, the name and address of the prescribing

1 practitioner, the Drug Enforcement Administration number of
2 the prescribing practitioner, the date of issuance, and the
3 prescribing practitioner's signature. The practitioner filling such
4 prescription shall write the date of filling and his or her own
5 signature on the face of the prescription. If the prescription is
6 for an animal, it shall also state the name and address of the
7 owner of the animal and the species of the animal.

8 (c) Prescriptions for all controlled substances listed in
9 Schedule III, IV, or V of section 28-405 shall be filed separately
10 from other prescriptions in a single file by the dispensing
11 practitioner and shall be maintained for a minimum of five years.
12 The practitioner shall make all such files readily available to
13 the department and law enforcement for inspection without a search
14 warrant.

15 (d) All prescriptions for controlled substances listed in
16 Schedule III, IV, or V of section 28-405 shall contain the name
17 and address of the patient, the name and address of the prescribing
18 practitioner, the Drug Enforcement Administration number of the
19 prescribing practitioner, the date of issuance, and for written
20 prescriptions, the prescribing practitioner's signature. If the
21 prescription is for an animal, it shall also state the owner's name
22 and address and species of the animal.

23 (e) A registrant who is the owner of a controlled
24 substance may transfer:

25 (i) Any controlled substance listed in Schedule I or II

1 of section 28-405 to another registrant as provided by law or by
2 rule and regulation of the department; and

3 (ii) Any controlled substance listed in Schedule III, IV,
4 or V of section 28-405 to another registrant if such owner complies
5 with subsection (4) of section 28-411.

6 (f)(i) The owner of any stock of controlled substances
7 may cause such controlled substances to be destroyed pursuant
8 to this subdivision when the need for such substances ceases.
9 Complete records of controlled substances destruction pursuant to
10 this subdivision shall be maintained by the registrant for five
11 years from the date of destruction.

12 (ii) When the owner is a registrant:

13 (A) Controlled substances listed in Schedule II, III,
14 IV, or V of section 28-405 may be destroyed by a pharmacy
15 inspector, by a reverse distributor, or by the federal Drug
16 Enforcement Administration. Upon destruction, any forms required by
17 the administration to document such destruction shall be completed;

18 (B) Liquid controlled substances in opened containers
19 which originally contained fifty milliliters or less or compounded
20 liquid controlled substances within the facility where they were
21 compounded may be destroyed if witnessed by two members of the
22 healing arts and recorded in accordance with subsection (4) of
23 section 28-411; or

24 (C) Solid controlled substances in opened unit-dose
25 containers or which have been adulterated within a hospital where

1 they were to be administered to patients at such hospital may
2 be destroyed if witnessed by two members of the healing arts and
3 recorded in accordance with subsection (4) of section 28-411.

4 (iii) When the owner is a patient, such owner may
5 transfer the controlled substances to a pharmacy for immediate
6 destruction by two responsible parties acting on behalf of the
7 pharmacy, one of whom must be a member of the healing arts.

8 (iv) When the owner is a resident of a long-term care
9 facility or hospital, the long-term care facility or hospital shall
10 assure that controlled substances are destroyed as follows:

11 (A) If the controlled substance is listed in Schedule II
12 or III of section 28-405, the destruction shall be witnessed by an
13 employee pharmacist or a consultant pharmacist and a member of the
14 healing arts; or

15 (B) If the controlled substance is listed in Schedule
16 IV or V of section 28-405, the destruction shall be witnessed
17 by an employee pharmacist or a consultant pharmacist and another
18 responsible adult.

19 (g) Before dispensing any controlled substance listed
20 in Schedule II, III, IV, or V of section 28-405, the dispensing
21 practitioner shall affix a label to the container in which the
22 controlled substance is dispensed. Such label shall bear the name
23 and address of the pharmacy or dispensing practitioner, the name
24 of the patient, the date of filling, the consecutive number of
25 the prescription under which it is recorded in the practitioner's

1 prescription files, the name of the prescribing practitioner, and
2 the directions for use of the controlled substance. Unless the
3 prescribing practitioner writes "do not label" or words of similar
4 import on the original written prescription or so designates in
5 an oral prescription, such label shall also bear the name of the
6 controlled substance.

7 (4) For purposes of this section, long-term care facility
8 has the same meaning as long-term care hospital in section
9 71-422 and includes an intermediate care facility for the mentally
10 retarded as defined in section 71-421.

11 Sec. 1123. Every licensee subject to the Uniform
12 Controlled Substances Act shall be subject to and comply with
13 sections 124 to 126 of this act relating to reporting and
14 investigations.

15 Sec. 1124. (1) A health care facility licensed under the
16 Health Care Facility Licensure Act or a peer review organization
17 or professional association relating to a profession regulated
18 under the Uniform Controlled Substances Act shall report to
19 the department, on a form and in the manner specified by the
20 department, any facts known to the facility, organization, or
21 association, including, but not limited to, the identity of the
22 credential holder and consumer, when the facility, organization, or
23 association:

24 (a) Has made payment due to adverse judgment, settlement,
25 or award of a professional liability claim against it or a

1 licensee, including settlements made prior to suit, arising out of
2 the acts or omissions of the licensee; or

3 (b) Takes action adversely affecting the privileges
4 or membership of a licensee in such facility, organization, or
5 association due to alleged incompetence, professional negligence,
6 unprofessional conduct, or physical, mental, or chemical
7 impairment.

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

10 (2) A report made to the department under this section
11 shall be confidential. The facility, organization, association, or
12 person making such report shall be completely immune from criminal
13 or civil liability of any nature, whether direct or derivative,
14 for filing a report or for disclosure of documents, records, or
15 other information to the department under this section. Nothing in
16 this subsection shall be construed to require production of records
17 protected by section 25-12,123, 71-2048, or 71-7903 or patient
18 safety work product under the Patient Safety Improvement Act except
19 as otherwise provided in any of such sections or such act.

20 (3) Any health care facility, peer review organization,
21 or professional association that fails or neglects to make a report
22 or provide information as required under this section is subject
23 to a civil penalty of five hundred dollars for the first offense
24 and a civil penalty of up to one thousand dollars for a subsequent
25 offense. Any civil penalty collected under this subsection shall

1 be remitted to the State Treasurer to be disposed of in accordance
2 with Article VII, section 5, of the Constitution of Nebraska.

3 (4) For purposes of this section, the department shall
4 accept reports made to it under the Nebraska Hospital-Medical
5 Liability Act or in accordance with national practitioner data bank
6 requirements of the federal Health Care Quality Improvement Act of
7 1986, as the act existed on January 1, 2007, and may require a
8 supplemental report to the extent such reports do not contain the
9 information required by the department.

10 Sec. 1125. (1) Unless such knowledge or information
11 is based on confidential medical records protected by the
12 confidentiality provisions of the federal Public Health Services
13 Act, 42 U.S.C. 290dd-2, and federal administrative rules and
14 regulations, as such act and rules and regulations existed on
15 January 1, 2007:

16 (a) Any insurer having knowledge of any violation of any
17 provision of the Uniform Controlled Substances Act governing the
18 profession of the person being reported whether or not such person
19 is licensed shall report the facts of such violation as known to
20 such insurer to the department; and

21 (b) All insurers shall cooperate with the department and
22 provide such information as requested by the department concerning
23 any possible violations by any person required to be licensed
24 whether or not such person is licensed.

25 (2) Such reporting shall be done on a form and in the

1 manner specified pursuant to sections 130 and 131 of this act. Such
2 reports shall be subject to sections 132 to 136 of this act.

3 Sec. 1126. The clerk of any county or district court
4 in this state shall report to the department the conviction of
5 any person licensed by the department under the Uniform Controlled
6 Substances Act of any felony or of any misdemeanor involving
7 the use, sale, distribution, administration, or dispensing of a
8 controlled substance, alcohol or chemical impairment, or substance
9 abuse and shall also report a judgment against any such licensee
10 arising out of a claim of professional liability. The Attorney
11 General or city or county prosecutor prosecuting any such criminal
12 action and plaintiff in any such civil action shall provide the
13 court with information concerning the license of the defendant or
14 party. Notice to the department shall be filed within thirty days
15 after the date of conviction or judgment in a manner agreed to by
16 the Director of Public Health of the Division of Public Health and
17 the State Court Administrator.

18 Sec. 1127. Section 28-1013, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 28-1013 Sections 28-1008 to 28-1017 shall not apply to:

21 (1) Care or treatment of an animal by a veterinarian
22 licensed under the Nebraska Veterinary Medicine and Surgery
23 Practice Act;

24 (2) Commonly accepted care or treatment of a police
25 animal by a law enforcement officer in the normal course of his or

1 her duties;

2 (3) Research activity carried on by any research facility
3 currently meeting the standards of the federal Animal Welfare Act,
4 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

5 (4) Commonly accepted practices of hunting, fishing, or
6 trapping;

7 (5) Commonly accepted practices occurring in conjunction
8 with rodeos, animal racing, or pulling contests;

9 (6) Humane killing of an animal by the owner or by his or
10 her agent or a veterinarian upon the owner's request;

11 (7) Commonly accepted practices of animal husbandry with
12 respect to farm animals, including their transport from one
13 location to another and nonnegligent actions taken by personnel
14 or agents of the Nebraska Department of Agriculture or the United
15 States Department of Agriculture in the performance of duties
16 prescribed by law;

17 (8) Use of reasonable force against an animal, other than
18 a police animal, which is working, including killing, capture, or
19 restraint, if the animal is outside the owned or rented property
20 of its owner or custodian and is injuring or posing an immediate
21 threat to any person or other animal;

22 (9) Killing of house or garden pests;

23 (10) Commonly followed practices occurring in conjunction
24 with the slaughter of animals for food or byproducts; and

25 (11) Commonly accepted animal training practices.

1 Sec. 1128. Section 28-1301, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 28-1301 (1) The definitions found in section 12-1204
4 shall apply to this section.

5 (2) Except as provided in subsection (3) of this section,
6 a person commits the offense of removing, abandoning, or concealing
7 human skeletal remains or burial goods if he or she:

8 (a) Knowingly digs up, disinters, removes, or carries
9 away from its place of deposit or burial any such remains or goods,
10 attempts to do the same, or aids, incites, assists, encourages, or
11 procures the same to be done;

12 (b) Knowingly throws away or abandons any such remains or
13 goods in any place other than a regular place for burial and under
14 a proper death certificate issued under section ~~71-182~~ 252 of
15 this act or section 71-605; or

16 (c) Receives, conceals, purchases, sells, transports,
17 trades, or disposes of any such remains or goods if the person
18 knows or has reason to know that such remains or goods have been
19 dug up, disinterred, or removed from their place of deposit or
20 burial or have not been reported in a proper death certificate
21 issued under section ~~71-182~~ 252 of this act or section 71-605,
22 attempts to do the same, or aids, incites, assists, encourages, or
23 procures the same to be done.

24 (3) This section shall not apply to: (a) A body
25 authorized to be surrendered for purposes of dissection as

1 provided by law; (b) the body of any person directed to be
2 delivered by competent authority for purposes of dissection; (c)
3 the officers of any lawfully constituted cemetery acting under
4 the direction of the board of trustees in removing any human
5 skeletal remains or burial goods from one place of burial in the
6 cemetery to another place in the same cemetery when disinterment
7 and reinterment permits are secured and return made pursuant to
8 section 71-605; (d) any person removing the human skeletal remains
9 or burial goods of a relative or intimate friend from one place
10 of burial in any lawfully constituted cemetery to another when
11 consent for such removal has been obtained from the lawfully
12 constituted authority thereof and permits for disinterment and
13 reinterment secured and return made pursuant to section 71-605;
14 (e) any professional archaeologist engaged in an otherwise lawful
15 and scholarly excavation of a nonburial site who unintentionally
16 encounters human skeletal remains or associated burial goods if the
17 archaeologist complies with the notification requirements of the
18 Unmarked Human Burial Sites and Skeletal Remains Protection Act; or
19 (f) any archaeological excavation by the Nebraska State Historical
20 Society or its designee in the course of execution of the duties
21 of the society if any human skeletal remains or associated burial
22 goods discovered during such excavation are disposed of pursuant to
23 section 12-1208.

24 (4) Violation of this section shall be a Class IV felony.

25 Sec. 1129. Section 29-2261, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 29-2261 (1) Unless it is impractical to do so, when an
3 offender has been convicted of a felony other than murder in the
4 first degree, the court shall not impose sentence without first
5 ordering a presentence investigation of the offender and according
6 due consideration to a written report of such investigation. When
7 an offender has been convicted of murder in the first degree and
8 (a) a jury renders a verdict finding the existence of one or more
9 aggravating circumstances as provided in section 29-2520 or (b) (i)
10 the information contains a notice of aggravation as provided in
11 section 29-1603 and (ii) the offender waives his or her right to
12 a jury determination of the alleged aggravating circumstances, the
13 court shall not commence the sentencing determination proceeding as
14 provided in section 29-2521 without first ordering a presentence
15 investigation of the offender and according due consideration to a
16 written report of such investigation.

17 (2) A court may order a presentence investigation in any
18 case, except in cases in which an offender has been convicted
19 of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V
20 misdemeanor, a traffic infraction, or any corresponding city or
21 village ordinance.

22 (3) The presentence investigation and report shall
23 include, when available, an analysis of the circumstances attending
24 the commission of the crime, the offender's history of delinquency
25 or criminality, physical and mental condition, family situation and

1 background, economic status, education, occupation, and personal
2 habits, and any other matters that the probation officer deems
3 relevant or the court directs to be included. All local and state
4 police agencies and Department of Correctional Services adult
5 correctional facilities shall furnish to the probation officer
6 copies of such criminal records, in any such case referred to
7 the probation officer by the court of proper jurisdiction, as the
8 probation officer shall require without cost to the court or the
9 probation officer.

10 Such investigation shall also include:

11 (a) Any written statements submitted to the county
12 attorney by a victim; and

13 (b) Any written statements submitted to the probation
14 officer by a victim.

15 (4) If there are no written statements submitted to the
16 probation officer, he or she shall certify to the court that:

17 (a) He or she has attempted to contact the victim; and

18 (b) If he or she has contacted the victim, such officer
19 offered to accept the written statements of the victim or to reduce
20 such victim's oral statements to writing.

21 For purposes of subsections (3) and (4) of this section,
22 the term victim shall be as defined in section 29-119.

23 (5) Before imposing sentence, the court may order the
24 offender to submit to psychiatric observation and examination for
25 a period of not exceeding sixty days or such longer period as the

1 court determines to be necessary for that purpose. The offender
2 may be remanded for this purpose to any available clinic or mental
3 hospital, or the court may appoint a qualified psychiatrist to make
4 the examination. The report of the examination shall be submitted
5 to the court.

6 (6) Any presentence report or psychiatric examination
7 shall be privileged and shall not be disclosed directly or
8 indirectly to anyone other than a judge, probation officers
9 to whom an offender's file is duly transferred, the probation
10 administrator or his or her designee, or others entitled by law
11 to receive such information, including personnel and mental health
12 professionals for the Nebraska State Patrol specifically assigned
13 to sex offender registration and community notification for the
14 sole purpose of using such report or examination for assessing
15 risk and for community notification of registered sex offenders.
16 For purposes of this subsection, mental health professional means
17 (a) a practicing physician licensed to practice medicine in this
18 state under the ~~provisions of section 71-102,~~ Medicine and Surgery
19 Practice Act, (b) a practicing psychologist licensed to engage in
20 the practice of psychology in this state as provided in section
21 ~~71-1,206.14,~~ 1045 of this act, or (c) a practicing mental health
22 professional licensed or certified in this state as provided in
23 ~~section 71-1,333.~~ the Mental Health Practice Act. The court may
24 permit inspection of the report or examination of parts thereof
25 by the offender or his or her attorney, or other person having

1 a proper interest therein, whenever the court finds it is in the
2 best interest of a particular offender. The court may allow fair
3 opportunity for an offender to provide additional information for
4 the court's consideration.

5 (7) If an offender is sentenced to imprisonment, a copy
6 of the report of any presentence investigation or psychiatric
7 examination shall be transmitted immediately to the Department of
8 Correctional Services. Upon request, the Board of Parole or the
9 Office of Parole Administration may receive a copy of the report
10 from the department.

11 (8) Notwithstanding subsection (6) of this section, the
12 Nebraska Commission on Law Enforcement and Criminal Justice under
13 the direction and supervision of the Chief Justice of the Supreme
14 Court shall have access to presentence investigations and reports
15 for the sole purpose of carrying out the study required under
16 subdivision (7) of section 81-1425. The commission shall treat such
17 information as confidential, and nothing identifying any individual
18 shall be released by the commission.

19 (9) Notwithstanding subsection (6) of this section, the
20 Supreme Court or an agent of the Supreme Court acting under the
21 direction and supervision of the Chief Justice shall have access to
22 psychiatric examinations and presentence investigations and reports
23 for research purposes. The Supreme Court and its agent shall
24 treat such information as confidential and nothing identifying any
25 individual shall be released.

1 Sec. 1130. Section 29-4013, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 29-4013 (1) The Nebraska State Patrol shall adopt and
4 promulgate rules and regulations to carry out the registration
5 provisions of the Sex Offender Registration Act.

6 (2)(a) The Nebraska State Patrol shall adopt and
7 promulgate rules and regulations for the release of information
8 pursuant to section 29-4009.

9 (b) The rules and regulations adopted by the Nebraska
10 State Patrol shall identify and incorporate factors relevant to the
11 sex offender's risk of recidivism. Factors relevant to the risk of
12 recidivism include, but are not limited to:

13 (i) Conditions of release that minimize the risk of
14 recidivism, including probation, parole, counseling, therapy, or
15 treatment;

16 (ii) Physical conditions that minimize the risk of
17 recidivism, including advanced age or debilitating illness; and

18 (iii) Any criminal history of the sex offender indicative
19 of a high risk of recidivism, including:

20 (A) Whether the conduct of the sex offender was found to
21 be characterized by repetitive and compulsive behavior;

22 (B) Whether the sex offender committed the sexual offense
23 against a child;

24 (C) Whether the sexual offense involved the use of a
25 weapon, violence, or infliction of serious bodily injury;

- 1 (D) The number, date, and nature of prior offenses;
- 2 (E) Whether psychological or psychiatric profiles
3 indicate a risk of recidivism;
- 4 (F) The sex offender's response to treatment;
- 5 (G) Any recent threats by the sex offender against a
6 person or expressions of intent to commit additional crimes; and
- 7 (H) Behavior of the sex offender while confined.
- 8 (c) The procedures for release of information established
9 by the Nebraska State Patrol shall provide for three levels of
10 notification by the law enforcement agency in whose jurisdiction
11 the sex offender is to be released depending on the risk of
12 recidivism by the sex offender as follows:
- 13 (i) If the risk of recidivism is low, other law
14 enforcement agencies shall be notified;
- 15 (ii) If the risk of recidivism is moderate, in addition
16 to the notice required by subdivision (i) of this subdivision,
17 schools, day care centers, health care facilities providing
18 services to children or vulnerable adults, and religious and youth
19 organizations shall be notified; and
- 20 (iii) If the risk of recidivism is high, in addition
21 to the notice required by subdivisions (i) and (ii) of this
22 subdivision, the public shall be notified through means designed
23 to reach members of the public, which are limited to direct
24 contact, news releases, a method utilizing a telephone system, or
25 the Internet. The Nebraska State Patrol shall provide notice of

1 sex offenders with a high risk of recidivism to at least one
2 legal newspaper published in and of general circulation in the
3 county where the offender is registered or, if none is published
4 in the county, in a legal newspaper of general circulation in such
5 county. If any means of notification proposes a fee for usage, then
6 nonprofit organizations holding a certificate of exemption under
7 section 501(c) of the Internal Revenue Code shall not be charged.

8 (d) The Nebraska State Patrol shall establish procedures
9 for the evaluation of the risk of recidivism and implementation of
10 community notification that promote the uniform application of the
11 notification rules and regulations required by this section.

12 (e) The Nebraska State Patrol or a designee shall assign
13 a notification level, based upon the risk of recidivism, to all
14 persons required to register under the act.

15 (f) Personnel and mental health professionals for the
16 sex offender registration and community notification division of
17 the Nebraska State Patrol shall have access to all documents that
18 are generated by any governmental agency that may have bearing on
19 sex offender risk assessment and community notification pursuant
20 to this section. This may include, but is not limited to, law
21 enforcement reports, presentence reports, criminal histories, or
22 birth certificates. The division shall not be charged for access
23 to documents under this subdivision. Access to such documents
24 will ensure that a fair risk assessment is completed using the
25 totality of all information available. For purposes of this

1 subdivision, mental health professional means (i) a practicing
2 physician licensed to practice medicine in this state under
3 the provisions of section 71-102, Medicine and Surgery Practice
4 Act, (ii) a practicing psychologist licensed to engage in the
5 practice of psychology in this state as provided in section
6 ~~71-1,206.14,~~ 1045 of this act, or (iii) a practicing mental health
7 professional licensed or certified in this state as provided in
8 ~~section 71-1,333,~~ the Mental Health Practice Act.

9 (3) Nothing in subsection (2) of this section shall
10 be construed to prevent law enforcement officers from providing
11 community notification concerning any person who poses a danger
12 under circumstances that are not provided for in the ~~act.~~ Sex
13 Offender Registration Act.

14 Sec. 1131. Section 43-129, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-129 If at any time an individual licensed to practice
17 medicine and surgery pursuant to ~~sections 71-1,102 to 71-1,107.14~~
18 the Medicine and Surgery Practice Act or licensed to engage in
19 the practice of psychology pursuant to ~~sections 71-1,206.01 to~~
20 ~~71-1,206.35,~~ the Psychology Practice Act, through his or her
21 professional relationship with an adopted person, determines that
22 information contained on the original birth certificate of the
23 adopted person may be necessary for the treatment of the health of
24 the adopted person, whether physical or mental in nature, he or she
25 may petition a court of competent jurisdiction for the release of

1 the information contained on the original birth certificate, and
2 the court may release the information on good cause shown.

3 Sec. 1132. Section 43-146.03, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-146.03 If at any time an individual licensed to
6 practice medicine and surgery pursuant to ~~sections 71-1,102 to~~
7 ~~71-1,107.14~~ the Medicine and Surgery Practice Act or licensed
8 to engage in the practice of psychology pursuant to ~~sections~~
9 ~~71-1,206.01 to 71-1,206.35,~~ the Psychology Practice Act, through
10 his or her professional relationship with an adopted person,
11 determines that information contained on the original birth
12 certificate of the adopted person may be necessary for the
13 treatment of the health of the adopted person, whether physical
14 or mental in nature, he or she may petition a court of competent
15 jurisdiction for the release of the information contained on
16 the original birth certificate, and the court may release the
17 information on good cause shown.

18 Sec. 1133. Section 43-1302, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 43-1302 (1)(a) Until January 1, 2006, the State Foster
21 Care Review Board shall be comprised of nine members to be
22 appointed by the Governor, subject to confirmation by a majority
23 of the members elected to the Legislature. At least one member
24 shall be an attorney with legal expertise in child welfare. Two
25 members shall be from each of the three congressional districts as

1 they existed on January 1, 1982. In addition to the six members
2 representative of the congressional districts, three members shall
3 be appointed by the Governor from a group consisting of all the
4 chairpersons of the local boards, and one such chairperson shall be
5 appointed from each such congressional district. The appointment of
6 a member of a local board to the state board shall not create a
7 vacancy on the local board. Members other than those appointed from
8 the group consisting of all the chairpersons of the local boards
9 shall be appointed to three-year terms, and those members appointed
10 from the group consisting of all the chairpersons of local boards
11 shall be appointed to two-year terms. No person shall serve on the
12 state board for more than six consecutive years. No person employed
13 by a child-caring agency, a child-placing agency, or a court shall
14 be appointed to the state board.

15 (b) On and after January 1, 2006, the State Foster Care
16 Review Board shall be comprised of eleven members appointed by
17 the Governor with the approval of a majority of the members
18 elected to the Legislature, consisting of: Three members of
19 local foster care review boards, one from each congressional
20 district; one practitioner of pediatric medicine, licensed under
21 the Uniform Licensing Law, Credentialing Act; one practitioner of
22 child clinical psychology, licensed under the Uniform Licensing
23 Law, Credentialing Act; one social worker certified under the
24 Uniform Licensing Law, Credentialing Act, with expertise in the
25 area of child welfare; one attorney who is or has been a guardian

1 ad litem; one representative of a statewide child advocacy group;
2 one director of a child advocacy center; one director of a court
3 appointed special advocate program; and one member of the public
4 who has a background in business or finance.

5 The terms of members appointed pursuant to this
6 subdivision shall be three years, except that of the initial
7 members of the state board, one-third shall be appointed for terms
8 of one year, one-third for terms of two years, and one-third for
9 terms of three years, as determined by the Governor. No person
10 appointed by the Governor to the state board shall serve more
11 than two consecutive three-year terms. An appointee to a vacancy
12 occurring from an unexpired term shall serve out the term of
13 his or her predecessor. Members whose terms have expired shall
14 continue to serve until their successors have been appointed and
15 qualified. Members serving on the state board on December 31, 2005,
16 shall continue in office until the members appointed under this
17 subdivision take office. The members of the state board shall, to
18 the extent possible, represent the three congressional districts
19 equally.

20 (2) The state board shall select a chairperson,
21 vice-chairperson, and such other officers as the state board deems
22 necessary. Members of the state board shall be reimbursed for their
23 actual and necessary expenses as provided in sections 81-1174 to
24 81-1177. The state board shall employ or contract for services from
25 such persons as are necessary to aid it in carrying out its duties.

1 Sec. 1134. Section 44-526, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 44-526 For purposes of the Standardized Health Claim Form
4 Act:

5 (1) Ambulatory surgical facility shall mean a facility,
6 not a part of a hospital, which provides surgical treatment
7 to patients not requiring hospitalization and which is licensed
8 as a health clinic as defined by section 71-416 but shall not
9 include the offices of private physicians or dentists whether for
10 individual or group practice;

11 (2) Health care shall mean any treatment, procedure, or
12 intervention to diagnose, cure, care for, or treat the effects of
13 disease or injury or congenital or degenerative condition;

14 (3) Health care practitioner shall mean an individual
15 or group of individuals in the form of a partnership, limited
16 liability company, or corporation licensed, certified, or otherwise
17 authorized or permitted by law to administer health care in the
18 course of professional practice and shall include the health care
19 professions and occupations which are regulated in ~~Chapter 71~~; the
20 Uniform Credentialing Act;

21 (4) Hospital shall mean a hospital as defined by section
22 71-419 except state hospitals administered by the Department of
23 Health and Human Services;

24 (5) Institutional care providers shall mean all
25 facilities licensed or otherwise authorized or permitted by law

1 to administer health care in the ordinary course of business and
2 shall include all health care facilities defined in the Health Care
3 Facility Licensure Act;

4 (6) Issuer shall mean an insurance company, fraternal
5 benefit society, health maintenance organization, third-party
6 administrator, or other entity reimbursing the costs of health care
7 expenses;

8 (7) Medicaid shall mean the medical assistance program
9 pursuant to the Medical Assistance Act;

10 (8) Medicare shall mean Title XVIII of the federal Social
11 Security Act, 42 U.S.C. 1395 et seq., as amended; and

12 (9) Uniform claim form shall mean the claim forms
13 and electronic transfer procedures developed pursuant to section
14 44-527.

15 Sec. 1135. Section 44-792, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 44-792 For purposes of sections 44-791 to 44-795:

18 (1) Health insurance plan means (a) any group
19 sickness and accident insurance policy, group health maintenance
20 organization contract, or group subscriber contract delivered,
21 issued for delivery, or renewed in this state and (b) any
22 self-funded employee benefit plan to the extent not preempted by
23 federal law. Health insurance plan includes any group policy,
24 group contract, or group plan offered or administered by the state
25 or its political subdivisions. Health insurance plan does not

1 include group policies providing coverage for a specified disease,
2 accident-only coverage, hospital indemnity coverage, disability
3 income coverage, medicare supplement coverage, long-term care
4 coverage, or other limited-benefit coverage. Health insurance plan
5 does not include any policy, contract, or plan covering an employer
6 group that covers fewer than fifteen employees;

7 (2) Mental health condition means any condition or
8 disorder involving mental illness that falls under any of the
9 diagnostic categories listed in the Mental Disorders Section of the
10 International Classification of Disease;

11 (3) Mental health professional means (a) a practicing
12 physician licensed to practice medicine in this state under
13 the ~~provisions of section 71-102,~~ Medicine and Surgery Practice
14 Act, (b) a practicing psychologist licensed to engage in the
15 practice of psychology in this state as provided in section
16 ~~71-1,206.14,~~ 1045 of this act, or (c) a practicing mental health
17 professional licensed or certified in this state as provided in
18 ~~section 71-1,333,~~ the Mental Health Practice Act;

19 (4) Rate, term, or condition means lifetime limits,
20 annual payment limits, and inpatient or outpatient service limits.
21 Rate, term, or condition does not include any deductibles,
22 copayments, or coinsurance; and

23 (5)(a) Serious mental illness means, prior to January
24 1, 2002, (i) schizophrenia, (ii) schizoaffective disorder, (iii)
25 delusional disorder, (iv) bipolar affective disorder, (v) major

1 depression, and (vi) obsessive compulsive disorder; and

2 (b) Serious mental illness means, on and after January
3 1, 2002, any mental health condition that current medical science
4 affirms is caused by a biological disorder of the brain and that
5 substantially limits the life activities of the person with the
6 serious mental illness. Serious mental illness includes, but is not
7 limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii)
8 delusional disorder, (iv) bipolar affective disorder, (v) major
9 depression, and (vi) obsessive compulsive disorder.

10 Sec. 1136. Section 44-2804, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 44-2804 Physician shall mean a person with an unlimited
13 license to practice medicine in this state pursuant to ~~sections~~
14 ~~71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act
15 or a person with a license to practice osteopathic medicine or
16 osteopathic medicine and surgery in this state pursuant to sections
17 ~~71-1,137 to 71-1,141. 687 to 691~~ of this act.

18 Sec. 1137. Section 44-2902, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 44-2902 Any ten or more physicians licensed under
21 ~~sections 71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice
22 Act may incorporate a mutual insurance association to insure member
23 physicians, their professional corporations, partnerships, limited
24 liability companies, agents, and employees against liability
25 arising from rendering or failing to render professional services

1 in the treatment or care of patients.

2 Sec. 1138. Section 44-32,170, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 44-32,170 Any health maintenance organization authorized
5 under the Health Maintenance Organization Act shall not be deemed
6 to be practicing medicine and shall be exempt from ~~sections~~
7 ~~71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act
8 relating to the practice of medicine.

9 Sec. 1139. Section 44-4110, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 44-4110 All providers of health services in Nebraska may
12 develop preferred provider organizations and contract with insurers
13 and participants in insurance arrangements if such providers have
14 met all licensure and certification requirements necessary to
15 practice a specific profession or to operate a specific health
16 care facility pursuant to ~~Chapter 71,~~ the Health Care Facility
17 Licensure Act and the Uniform Credentialing Act. An organization
18 of preferred providers may limit itself to one or more specific
19 professions or specialties within a profession, as defined in
20 ~~Chapter 71,~~ the Uniform Credentialing Act, and may limit the number
21 of participating providers to that required to adequately meet the
22 need for its particular program and the purpose of sections 44-4101
23 to 44-4113 to furnish health services in a manner reasonably
24 expected to contain or lower costs.

25 Sec. 1140. Section 46-602, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 46-602 (1) Each water well completed in this state on or
3 after July 1, 2001, excluding test holes and dewatering wells to
4 be used for less than ninety days, shall be registered with the
5 Department of Natural Resources as provided in this section within
6 sixty days after completion of construction of the water well.
7 The licensed water well contractor as defined in section 46-1213
8 constructing the water well, or the owner of the water well if the
9 owner constructed the water well, shall file the registration on a
10 form made available by the department and shall also file with the
11 department the information from the well log required pursuant to
12 section 46-1241. The department shall, by January 1, 2002, provide
13 licensed water well contractors with the option of filing such
14 registration forms electronically. No signature shall be required
15 on forms filed electronically. The fee required by subsection (3)
16 of section 46-1224 shall be the source of funds for any required
17 fee to a contractor which provides the on-line services for such
18 registration. Any discount in the amount paid the state by a credit
19 card, charge card, or debit card company or a third-party merchant
20 bank for such registration fees shall be deducted from the portion
21 of the registration fee collected pursuant to section 46-1224.

22 (2)(a) If the newly constructed water well is a
23 replacement water well, the registration form shall include
24 (i) the registration number of the water well being replaced,
25 if applicable, and (ii) the date the original water well was

1 decommissioned or a certification that the water well will be
2 decommissioned within one hundred eighty days or a certification
3 that the original water well will be modified and equipped to
4 pump fifty gallons per minute or less and will be used only for
5 livestock, monitoring, observation, or any other nonconsumptive use
6 or de minimus use approved by the applicable natural resources
7 district.

8 (b) For purposes of this section, replacement water well
9 means a water well which is constructed to provide water for
10 the same purpose as the original water well and is operating in
11 accordance with any applicable permit from the department and any
12 applicable rules and regulations of the natural resources district
13 and, if the purpose is for irrigation, the replacement water well
14 delivers water to the same tract of land served by the original
15 water well and (i) replaces an abandoned water well within three
16 years after the last operation of the abandoned water well and
17 the original water well is decommissioned either before or within
18 one hundred eighty days after such construction, (ii) replaces a
19 water well that has not been abandoned but will not be used after
20 construction of the new water well and the original water well
21 will be decommissioned within one hundred eighty days after such
22 construction, except that in the case of a municipal water well,
23 the original municipal water well may be used after construction
24 of the new water well but shall be decommissioned within one year
25 after completion of the replacement water well, or (iii) will

1 continue to be used but will be modified and equipped within one
2 hundred eighty days after such construction of the replacement
3 water well to pump fifty gallons per minute or less and will
4 be used only for livestock, monitoring, observation, or any other
5 nonconsumptive or de minimus use and approved by the applicable
6 natural resources district.

7 (c) No water well shall be registered as a replacement
8 water well until the Department of Natural Resources has received
9 a properly completed notice of decommissioning for the water well
10 being replaced on a form made available by the department, or
11 properly completed notice, prepared in accordance with subsection
12 (7) of this section, of the modification and equipping of the
13 original water well to pump fifty gallons per minute or less
14 for use only for livestock, monitoring, observation, or any other
15 nonconsumptive or de minimus use approved by the applicable natural
16 resources district. Such notices, as required, shall be completed
17 by (i) the licensed water well contractor as defined in section
18 46-1213 who decommissions the water well or modifies and equips
19 the water well, (ii) the licensed pump installation contractor as
20 defined in section 46-1209 who decommissions the water well or
21 modifies and equips the water well, or (iii) the owner if the owner
22 decommissions a driven sandpoint well which is on land owned by him
23 or her for farming, ranching, or agricultural purposes or as his
24 or her place of abode. The Department of Health and Human Services
25 Regulation and Licensure shall, by rule and regulation, determine

1 which contractor or owner shall be responsible for such notice
2 in situations in which more than one contractor or owner may be
3 required to provide notice under this subsection.

4 (3) For a series of two or more water wells completed and
5 pumped into a common carrier as part of a single site plan for
6 irrigation purposes, a registration form and a detailed site plan
7 shall be filed for each water well. The registration form shall
8 include the registration numbers of other water wells included in
9 the series if such water wells are already registered.

10 (4) A series of water wells completed for purposes
11 of installation of a ground heat exchanger for a structure
12 for utilizing the geothermal properties of the ground shall be
13 considered as one water well. One registration form and a detailed
14 site plan shall be filed for each such series.

15 (5) One registration form shall be required along with
16 a detailed site plan which shows the location of each such water
17 well in the site and a log from each such water well for water
18 wells constructed as part of a single site plan for (a) monitoring
19 ground water, obtaining hydrogeologic information, or extracting
20 contaminants from the ground, (b) water wells constructed as part
21 of remedial action approved by the Department of Environmental
22 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and
23 (c) water well owners who have a permit issued pursuant to the
24 Industrial Ground Water Regulatory Act and also have an underground
25 injection control permit issued by the Department of Environmental

1 Quality.

2 (6) The Department of Natural Resources shall be notified
3 by the owner of any change in the ownership of a water well
4 required to be registered under this section. Notification shall be
5 in such form and include such evidence of ownership as the Director
6 of Natural Resources by rule and regulation directs. The department
7 shall use such notice to update the registration on file. The
8 department shall not collect a fee for the filing of the notice.

9 (7) The licensed water well contractor or licensed
10 pump installation contractor responsible therefor shall notify the
11 department within sixty days on a form provided by the department
12 of any pump installation or any modifications to the construction
13 of the water well or pump, after the initial registration of
14 the well. For a change of use resulting in modification and
15 equipping of an original water well which is being replaced in
16 accordance with subsection (2) of this section, the licensed water
17 well contractor or licensed pump installation contractor shall
18 notify the department within sixty days on a form provided by the
19 department of the water well and pump modifications and equipping
20 of the original water well. A water well owner shall notify the
21 department within sixty days on a form provided by the department
22 of any other changes or any inaccuracies in recorded water well
23 information, including, but not limited to, changes in use. The
24 department shall not collect a fee for the filing of the notice.

25 (8) Whenever a water well becomes an illegal water well

1 as defined in section 46-706, the owner of the water well shall
2 either correct the deficiency that causes the well to be an illegal
3 water well or shall cause the proper decommissioning of the water
4 well in accordance with rules and regulations adopted pursuant to
5 the Water Well Standards and Contractors' ~~Licensing~~ Practice Act.
6 The licensed water well contractor who decommissions the water
7 well, the licensed pump installation contractor who decommissions
8 the water well, or the owner if the owner decommissions a driven
9 sandpoint well which is on land owned by him or her for farming,
10 ranching, or agricultural purposes or as his or her place of abode,
11 shall provide a properly completed notice of abandonment to the
12 Department of Natural Resources within sixty days. The Department
13 of Health and Human Services Regulation and Licensure shall, by
14 rule and regulation, determine which contractor or owner shall be
15 responsible for such notice in situations in which more than one
16 contractor or owner may be required to provide notice under this
17 subsection. The Department of Natural Resources shall not collect a
18 fee for the filing of the notice.

19 (9) Except for water wells which are used solely for
20 domestic purposes and were constructed before September 9, 1993,
21 and for test holes and dewatering wells used for less than ninety
22 days, each water well which was completed in this state before
23 July 1, 2001, and which is not registered on that date shall be
24 an illegal water well until it is registered with the Department
25 of Natural Resources. Such registration shall be completed by a

1 licensed water well contractor or by the current owner of the
2 water well, shall be on forms provided by the department, and shall
3 provide as much of the information required by subsections (1)
4 through (5) of this section for registration of a new water well as
5 is possible at the time of registration.

6 (10) Water wells which are or were used solely for
7 injecting any fluid other than water into the underground water
8 reservoir, which were constructed before July 16, 2004, and which
9 have not been properly decommissioned on or before July 16, 2004,
10 shall be registered on or before July 1, 2005.

11 Sec. 1141. Section 46-602.01, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 46-602.01 Prior to commencing construction of or
14 installation of a pump in a water well in a management area or
15 completing a notice of modification and change of use in lieu of
16 decommissioning of a water well as part of a water well replacement
17 procedure, a licensed water well contractor as defined in section
18 46-1213 or a licensed pump installation contractor as defined in
19 section 46-1209 shall take those steps necessary to satisfy himself
20 or herself that the person for whom the well is to be constructed,
21 the modification and change of use is to be completed, or the
22 pump installed has obtained a permit as required by the Nebraska
23 Ground Water Management and Protection Act. The permit issued by
24 the natural resources district as required by the act may (1)
25 further define a replacement water well in accordance with the act

1 so long as any further definition is not inconsistent with section
2 46-602, (2) impose restrictions on consumptive use, or (3) impose
3 additional restrictions based on historic consumptive use.

4 Any person who commences or causes construction of or
5 installation of a pump in a water well for which the required
6 permit has not been obtained or who knowingly furnishes false
7 information regarding such permit shall be guilty of an offense
8 punishable as provided in section 46-613.02.

9 Sec. 1142. Section 46-604, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 46-604 The Director of Natural Resources shall retain
12 the registration form required by section 46-602 and shall make a
13 copy available to the natural resources district within which the
14 water well is located, to the owner of the water well, and to the
15 licensed water well contractor as defined in section 46-1213.

16 Sec. 1143. Section 46-1201, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 46-1201 Sections 46-1201 to 46-1241 and section 1158
19 of this act shall be known and may be cited as the Water Well
20 Standards and Contractors' Licensing Practice Act.

21 Sec. 1144. Section 46-1202, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 46-1202 The purposes of the Water Well Standards and
24 Contractors' Licensing Practice Act are to: (1) Provide for the
25 protection of ground water through the licensing and regulation

1 of water well contractors, ~~and~~ pump installation contractors,
2 ~~and the certification of~~ water well drilling supervisors, pump
3 installation supervisors, water well monitoring technicians, and
4 natural resources ground water technicians in the State of
5 Nebraska; (2) protect the health and general welfare of the
6 citizens of the state; (3) protect ground water resources from
7 potential pollution by providing for proper siting and construction
8 of water wells and proper decommissioning of water wells; and (4)
9 provide data on potential water supplies through well logs which
10 will promote the economic and efficient utilization and management
11 of the water resources of the state.

12 Sec. 1145. Section 46-1203, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 46-1203 For purposes of the Water Well Standards and
15 Contractors' ~~Licensing~~ Practice Act, unless the context otherwise
16 requires, the definitions found in sections 46-1204.01 to 46-1216
17 shall be used.

18 Sec. 1146. Section 46-1204.01, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 46-1204.01 Abandoned water well means any water well
21 (1) the use of which has been accomplished or permanently
22 discontinued, (2) which has been decommissioned as described in
23 the rules and regulations of the Department of Health and Human
24 Services Regulation and Licensure, and (3) for which the notice
25 of abandonment required by subsection (2) of section 46-602 has

1 been filed with the Department of Natural Resources by the licensed
2 water well contractor or licensed pump installation contractor who
3 decommissioned the water well or by the water well owner if the
4 owner decommissioned the water well.

5 Sec. 1147. Section 46-1205, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 46-1205 Board ~~shall mean~~ means the Water Well Standards
8 and Contractors' Licensing Board, ~~created in section 46-1217.~~

9 Sec. 1148. Section 46-1205.01, Reissue Revised Statutes
10 of Nebraska, is amended to read:

11 46-1205.01 ~~Certified~~ Licensed natural resources ground
12 water technician means a natural resources ground water technician
13 who has taken a training course, passed an examination based on
14 the training course, and received a ~~certificate~~ license from the
15 department indicating that he or she is a ~~certified~~ licensed
16 natural resources ground water technician.

17 Sec. 1149. Section 46-1207.01, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 46-1207.01 (1) Illegal water well ~~shall mean~~ means any
20 water well which has not been properly decommissioned and which
21 meets any of the following conditions:

22 (a) The water well is in such a condition that it cannot
23 be placed in active or inactive status;

24 (b) Any necessary operating equipment has been removed
25 and the well has not been placed in inactive status;

1 (c) The water well is in such a state of disrepair that
2 continued use for the purpose for which it was constructed is
3 impractical;

4 (d) The water well was constructed after October 1, 1986,
5 but not constructed by a licensed water well contractor or by an
6 individual on land owned by him or her and used by him or her for
7 farming, ranching, or agricultural purposes or as his or her place
8 of abode;

9 (e) The water well poses a health or safety hazard;

10 (f) The water well is an illegal water well in accordance
11 with section 46-706; or

12 (g) The water well has been constructed after October
13 1, 1986, and such well is not in compliance with the standards
14 developed under the Water Well Standards and Contractors' ~~Licensing~~
15 Practice Act.

16 (2) Whenever the department classifies a water well as
17 an illegal water well, the landowner may petition the department
18 to reclassify the water well as an active status water well, an
19 inactive status water well, or an abandoned water well.

20 Sec. 1150. Section 46-1209, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 46-1209 ~~Pump~~ Licensed pump installation contractor means
23 an individual who has obtained a license from the department
24 and who is a ~~the~~ principal officer, director, manager, or
25 owner-operator of any business engaged in the installation of

1 pumps and pumping equipment or the decommissioning of water wells.
2 ~~Pump installation contractor does not include: (1) An individual~~
3 ~~who installs or repairs pumps and pumping equipment for a water~~
4 ~~well, or who decommissions a driven sandpoint well, which is on~~
5 ~~land owned by him or her and used by him or her for farming,~~
6 ~~ranching, or agricultural purposes or as his or her place of~~
7 ~~abode; (2) a pump installation supervisor; or (3) an individual~~
8 ~~who repairs pumps and pumping equipment at a location other than a~~
9 ~~water well location.~~

10 Sec. 1151. Section 46-1210, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 46-1210 ~~Pump~~ Licensed pump installation supervisor means
13 any individual who has obtained a license from the department and
14 who is engaged in the installation of pumps and pumping equipment
15 or the decommissioning of water wells. Such supervisor may have
16 discretionary and supervisory authority over other employees of a
17 pump installation contractor. ~~Pump installation supervisor does not~~
18 ~~include: (1) An individual who installs or repairs pumps or pumping~~
19 ~~equipment for a water well, or decommissions a driven sandpoint~~
20 ~~well, which is on land owned by him or her and used by him or her~~
21 ~~for farming, ranching, or agricultural purposes or as his or her~~
22 ~~place of abode; (2) an individual who repairs pumps and pumping~~
23 ~~equipment at a location other than a water well location; or (3)~~
24 ~~any licensed pump installation contractor.~~

25 Sec. 1152. Section 46-1213, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 46-1213 ~~Water~~ Licensed water well contractor means an
3 individual who has obtained a license from the department and who
4 is a ~~the~~ principal officer, director, manager, or owner-operator
5 of any business engaged in the construction or decommissioning
6 of water wells. ~~Water well contractor does not include: (1) An~~
7 ~~individual who constructs a water well, or who decommissions a~~
8 ~~driven sandpoint well, which is on land owned by him or her and~~
9 ~~used by him or her for farming, ranching, or agricultural purposes~~
10 ~~or as his or her place of abode; or (2) a water well drilling~~
11 ~~supervisor.~~

12 Sec. 1153. Section 46-1214, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 46-1214 ~~Water~~ Licensed water well drilling supervisor
15 means any individual who has obtained a license from the department
16 and who is engaged in the construction or decommissioning of
17 water wells. Such supervisor may have discretionary and supervisory
18 authority over other employees of a water well contractor. ~~Water~~
19 ~~well drilling supervisor does not include: (1) An individual who~~
20 ~~constructs a water well, or decommissions a driven sandpoint well,~~
21 ~~which is on land owned by him or her and used by him or her for~~
22 ~~farming, ranching, or agricultural purposes or as his or her place~~
23 ~~of abode; or (2) any licensed water well contractor.~~

24 Sec. 1154. Section 46-1214.01, Reissue Revised Statutes
25 of Nebraska, is amended to read:

1 46-1214.01 ~~Water~~ Licensed water well monitoring
 2 technician means any individual who has obtained a license from the
 3 department and who is engaged solely in the measuring of ground
 4 water levels, the collection of ground water samples from existing
 5 water wells, or the inspection of installed water well equipment or
 6 pumping systems. A licensed water well monitoring technician shall
 7 not supervise the work of others. ~~Water well monitoring technician~~
 8 ~~does not include:~~ ~~(1) An individual who constructs or decommissions~~
 9 ~~a water well or installs or repairs pumps or pumping equipment or~~
 10 ~~a water well;~~ ~~(2) a natural resources ground water technician;~~ ~~or~~
 11 ~~(3) an individual who carries out the measurement, sampling, or~~
 12 ~~inspection of a water well which is on land owned by him or her and~~
 13 ~~used by him or her for farming, ranching, or agricultural purposes~~
 14 ~~or as his or her place of abode.~~

15 Sec. 1155. Section 46-1217, Revised Statutes Cumulative
 16 Supplement, 2006, as amended by section 209, Legislative Bill 296,
 17 One Hundredth Legislature, First Session, 2007, is amended to read:

18 46-1217 (1) There is hereby created a Water Well
 19 Standards and Contractors' Licensing Board. The board shall be
 20 composed of ten members, six of whom shall be appointed by
 21 the Governor as follows: ~~(1) A~~ (a) A licensed water well
 22 ~~contractor representing irrigation water well contractors,~~ ~~(2)~~
 23 ~~a~~ (b) a licensed water well contractor representing domestic water
 24 ~~well contractors,~~ ~~(3) a~~ (c) a licensed water well contractor
 25 ~~representing municipal and industrial water well contractors,~~ ~~(4) a~~

1 (d) a licensed pump installation contractor, ~~(5) (e)~~ a manufacturer
2 or supplier of water well or pumping equipment, and ~~(6) (f)~~ a
3 holder of a license ~~or certificate~~ issued under the Water Well
4 Standards and Contractors' Licensing Practice Act employed by a
5 natural resources district. The chief executive officer of the
6 Department of Health and Human Services or his or her designated
7 representative, the Director of Environmental Quality or his or
8 her designated representative, the Director of Natural Resources
9 or his or her designated representative, and the director of the
10 Conservation and Survey Division of the University of Nebraska or
11 his or her designated representative shall also serve as members of
12 the board.

13 (2) Each member shall be a resident of the state. Each
14 ~~appointed member of the board~~ industry representative shall have
15 had at least five years of experience in the business of his or
16 her category prior to appointment and shall be actively engaged
17 in such business at the time of appointment and while serving on
18 the board. Each member representing a category subject to licensing
19 under the Water Well Standards and Contractors' Licensing Practice
20 Act, ~~with the exception of members initially appointed,~~ shall
21 be licensed by the department pursuant to such act. In making
22 appointments, the Governor may consider recommendations made by the
23 trade associations of each category.

24 Sec. 1156. Section 46-1218, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 46-1218 The Governor shall make the first appointments to
2 the board within sixty days after October 1, 1986. Successors to
3 the first appointees to the board shall be appointed for four-year
4 terms. Two of the initial appointees shall serve terms of two
5 years and two of the initial appointees shall serve terms of three
6 years as determined by lot. The term of the remaining initial
7 appointee shall be four years. (1) The terms of members of the
8 board appointed pursuant to subdivisions (1)(e) and (f) of section
9 46-1217 shall be extended by one year to five-year terms, and the
10 successors to members appointed pursuant to subdivisions (1)(a)
11 through (f) of such section shall be appointed for five-year terms.
12 No appointed member shall be appointed to serve ~~three~~ more than two
13 consecutive full ~~four-year~~ five-year terms.

14 (2) Each appointed member shall hold office until the
15 expiration of his or her term or until a successor has been
16 appointed and qualified. Any vacancy occurring in the appointed
17 board membership, other than by expiration of a term, shall be
18 filled within sixty days by the Governor by appointment from the
19 appropriate category for the unexpired term.

20 Sec. 1157. Section 46-1219, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 46-1219 (1) The board shall meet within sixty days after
23 the appointment of its members and thereafter at such other times
24 as is deemed necessary or advisable. Special meetings of the board
25 shall be called upon the written request of any three members of

1 the board. The place of all meetings shall be at the offices of the
2 department, unless otherwise determined by the board. ~~At the first~~
3 ~~meeting of the board,~~ a chairperson and vice-chairperson shall be
4 ~~selected.~~

5 (2) A majority of the members of the board shall
6 constitute a quorum for the transaction of business. Every act
7 of a majority of the total number of members of the board shall be
8 deemed to be an act of the board.

9 Sec. 1158. (1) All water well construction and
10 monitoring, pump and pumping equipment installation and repair,
11 and decommissioning shall be accomplished following the standards
12 developed under the Water Well Standards and Contractors' Practice
13 Act.

14 (2) A licensed water well contractor may have supervisory
15 authority over all employees.

16 (3) A licensed water well drilling supervisor shall work
17 under the supervision of a licensed water well contractor and may
18 have supervisory authority over noncredentialed employees.

19 (4) A licensed pump installation contractor may have
20 supervisory authority over all employees.

21 (5) A licensed pump installation supervisor shall work
22 under the supervision of a licensed pump installation contractor
23 and may have supervisory authority over noncredentialed employees.

24 (6) A licensed water well monitoring technician may work
25 independently and shall not have supervisory authority.

1 (7) A licensed natural resources ground water technician
2 employed by a natural resources district may work independently
3 and shall not have supervisory authority over any credentialed or
4 noncredentialed persons.

5 (8) An individual who owns land and uses it for farming,
6 ranching, or agricultural purposes or as his or her place of abode
7 may, on such land, construct a water well, install a pump in a
8 well, or decommission a driven sandpoint well.

9 Sec. 1159. Section 46-1223, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 46-1223 ~~(1)~~ The department with the assistance of the
12 board shall cause examination to be made of applicants for
13 licensure or certification. The board shall determine the type,
14 categories, contents, and required passing grade of examinations
15 to be administered to applicants for licensing or certification.
16 Examinations shall be held at such times and places as the
17 department, with the advice of the board, may determine. The
18 department shall act within ninety days upon all completed
19 applications for licensure or certification.

20 ~~(2)~~ (1) Examinations for water well monitoring
21 technicians shall be designed and adopted to examine the knowledge
22 of the applicant regarding the minimum standards for water wells
23 and water well pumps, the geological characteristics of the
24 state, measuring ground water levels, and water sampling practices
25 and techniques. Examinations for natural resources ground water

1 technicians shall examine the knowledge of the applicant regarding
2 inspection of chemigation systems, measuring and recording static
3 water levels, inspecting and servicing flow meters, and water
4 sampling practices and techniques. All other examinations shall be
5 designed and adopted to examine the knowledge of the applicant
6 regarding the minimum standards for water wells and water well
7 pumps, the geological characteristics of the state, current
8 drilling or pump installation practices and techniques, and such
9 other knowledge as deemed appropriate by the board. ~~The board~~
10 ~~may adopt any nationally developed standard examinations as~~
11 ~~constituting part or all of the Nebraska examinations.~~

12 ~~(3)~~ (2) An examinee who fails to pass the initial
13 examination may retake such examination without charge at any
14 regularly scheduled examination held within ~~four~~ twelve months
15 after failing to pass the initial examination, except that when
16 a national standardized examination is utilized which requires
17 the payment of a fee to purchase such examination, the board
18 shall require the applicant to pay the appropriate examination fee
19 whether an initial examination or a retake of an examination is
20 involved.

21 ~~(4)~~ (3) In cases of hardship, the board may provide
22 and direct that special arrangements for administering examinations
23 be utilized. The board may also provide for temporary hardship
24 licensing without examination due to the death of the current
25 license holder or for other good cause shown.

1 Sec. 1160. Section 46-1223.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 46-1223.01 The department shall develop a ~~certification~~
4 program that is designed to train individuals to become ~~certified~~
5 licensed natural resources ground water technicians. Such course
6 shall be developed by the department in consultation with the
7 natural resources districts. Such course shall include inspection
8 of chemigation systems, measuring and recording static water
9 levels, inspecting and servicing flow meters, and taking water
10 samples. Training sessions shall not be less than two hours and
11 shall not exceed eight hours. ~~At the end of the training session,~~
12 ~~individuals taking the training shall be required to take a written~~
13 ~~examination.~~

14 Sec. 1161. Section 46-1224, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 46-1224 (1) Except as otherwise provided in subsections
17 (2) through (4) of this section, the board shall set reasonable
18 fees in an amount calculated to recover the costs incurred by the
19 department and the board in administering and carrying out the
20 purposes of the Water Well Standards and Contractors' ~~Licensing~~
21 Practice Act. Such fees shall be paid to the department and
22 remitted to the State Treasurer for credit to the Water Well
23 Standards and Contractors' Licensing Fund, which fund is hereby
24 created. Such fund shall be used by the department and the board
25 for the purpose of administering the Water Well Standards and

1 Contractors' ~~Licensing~~ Practice Act. Additionally, such fund shall
2 be used to pay any required fee to a contractor which provides the
3 on-line services for registration of water wells. Any discount in
4 the amount paid the state by a credit card, charge card, or debit
5 card company or a third-party merchant bank for such registration
6 fees shall be deducted from the portion of the registration fee
7 collected pursuant to this section. Any money in the fund available
8 for investment shall be invested by the state investment officer
9 pursuant to the Nebraska Capital Expansion Act and the Nebraska
10 State Funds Investment Act.

11 (2) Fees for credentialing individuals under the Water
12 Well Standards and Contractors' ~~Licensing~~ Practice Act shall be
13 established and collected as provided in ~~section 71-162.~~ sections
14 51 to 57 of this act.

15 (3) The board shall set a fee of not less than
16 twenty-five dollars and not more than forty dollars for each
17 water well which is required to be registered and which is designed
18 and constructed to pump less than fifty gallons per minute and
19 each monitoring and observation well and a fee of not less than
20 forty dollars and not more than eighty dollars for each water
21 well which is required to be registered and which is designed and
22 constructed to pump fifty gallons per minute or more. For water
23 wells permitted pursuant to the Industrial Ground Water Regulatory
24 Act, the fee set pursuant to this subsection shall be collected
25 for each of the first ten such water wells registered, and for

1 each group of ten or fewer such water wells registered thereafter,
2 the fee shall be collected as if only one water well was being
3 registered. For a series of two or more water wells completed and
4 pumped into a common carrier, as defined in section 46-601.01,
5 as part of a single site plan for irrigation purposes, the fee
6 set pursuant to this subsection shall be collected for each of
7 the first two such water wells registered. For a series of water
8 wells completed for purposes of installation of a ground heat
9 exchanger for a structure for utilizing the geothermal properties
10 of the ground, the fee set pursuant to this subsection shall be
11 collected as if only one water well was being registered. For water
12 wells constructed as part of a single site plan for monitoring
13 ground water, obtaining hydrogeologic information, or extracting
14 contaminants from the ground and for water wells constructed as
15 part of remedial action approved by the Department of Environmental
16 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the
17 fee set pursuant to this subsection shall be collected for each of
18 the first five such water wells registered, and for each group of
19 five or fewer such water wells registered thereafter, the fee shall
20 be collected as if only one water well was being registered. The
21 fees shall be remitted to the Director of Natural Resources with
22 the registration form required by section 46-602 and shall be in
23 addition to the fee in section 46-606. The director shall remit the
24 fee to the State Treasurer for credit to the Water Well Standards
25 and Contractors' Licensing Fund.

1 (4) The board shall set an application fee for a
2 declaratory ruling or variance of not less than fifty dollars
3 and not more than one hundred dollars. The fee shall be remitted
4 to the State Treasurer for credit to the Water Well Standards and
5 Contractors' Licensing Fund.

6 Sec. 1162. Section 46-1225, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 46-1225 ~~(1)~~ The board shall adopt and promulgate rules
9 and regulations to establish continuing competency requirements for
10 persons licensed ~~or certified~~ under the Water Well Standards
11 and Contractors' Licensing Practice Act. Continuing education
12 is sufficient to meet continuing competency requirements. Such
13 requirements may also include, but not be limited to, one or more
14 of the continuing competency activities listed in section 71-161.09
15 which a licensed ~~or certified~~ person may select as an alternative
16 to continuing education.

17 ~~(2)~~ Each renewal applicant shall, on or before the date
18 of expiration of his or her license or certificate, complete
19 documentation as required by the board that he or she has complied
20 with the continuing competency requirements during the preceding
21 period. Any licensee or certificate holder who has not complied
22 with the continuing competency requirements shall not be issued a
23 renewal license or certificate, unless he or she is exempted from
24 the continuing competency requirements or he or she is unable to
25 comply with the requirements due to circumstances beyond his or

1 ~~her control as determined by the board. Procedures for refusal of~~
2 ~~renewal of licenses and certificates or reinstatement of licenses~~
3 ~~and certificates shall be in accordance with section 46-1237.~~

4 Sec. 1163. Section 46-1227, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 46-1227 The department, with the ~~advice and consent~~
7 approval of the board, shall adopt and promulgate uniform rules and
8 regulations, in accordance with the rules and regulations adopted
9 and promulgated pursuant to sections 46-602 and 81-1505, for
10 the establishment of standards for the (1) construction of water
11 wells, (2) installation of pumps and pumping equipment, and (3)
12 decommissioning water wells. Such rules, regulations, and standards
13 may recognize differing hydrologic and geologic conditions, may
14 recognize differing uses of any developed supplies, and shall be
15 designed to promote efficient methods of operation and prevent
16 water wells from becoming a source of contamination to the aquifer.
17 Such standards shall be applicable whether such activities are
18 carried out by a licensed water well contractor, a licensed pump
19 installation contractor, a licensed water well drilling supervisor,
20 a licensed pump installation supervisor, or any other person.
21 Nothing in this section shall be construed to require that the
22 department adopt, promulgate, or amend rules and regulations for
23 programs in existence on October 1, 1986.

24 Sec. 1164. Section 46-1229, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 46-1229 Any person desiring to engage in the construction
2 of water wells, the installation of pumps and pumping equipment, or
3 the decommissioning of water wells shall make initial application
4 for a license to the department in accordance with section 30 of
5 this act. ~~Each such application shall include satisfactory evidence~~
6 ~~that the applicant is at least the age of majority and is of~~
7 ~~good moral character. The department shall charge an application~~
8 ~~fee established as provided in section 71-162 for the filing of~~
9 ~~such application. The department shall not act upon any application~~
10 ~~until the application fee for such license has been paid. A~~
11 ~~license to engage in the construction or decommissioning of water~~
12 ~~wells or the installation of pumps and pumping equipment shall be~~
13 ~~issued to every applicant who demonstrates professional competence~~
14 ~~by successfully passing the examination prescribed in section~~
15 ~~46-1223, pays the appropriate license fee, and otherwise complies~~
16 ~~with the Uniform Credentialing Act, the Water Well Standards and~~
17 ~~Contractors' Licensing Practice Act, and all standards, rules, and~~
18 ~~regulations adopted and promulgated pursuant to such ~~act~~. acts.~~
19 Applicants shall receive licenses for any category or combination
20 of categories for which they have successfully passed the required
21 examination. ~~If the applicant is an individual, the application~~
22 ~~shall include the applicant's social security number.~~

23 Sec. 1165. Section 46-1230, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 46-1230 Each applicant for ~~licensing or relicensing~~ as

1 a an initial license as a licensed water well contractor or
2 as a licensed pump installation contractor shall furnish proof
3 to the department that there is in force a policy of public
4 liability and property damage insurance issued to the applicant in
5 an amount established by the department by rules and regulations
6 sufficient to protect the public interest. Proof of insurance shall
7 be maintained and submitted annually for the term of the active
8 license.

9 Sec. 1166. Section 46-1231, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 46-1231 Each water well drilling supervisor, pump
12 installation supervisor, natural resources ground water technician,
13 and water well monitoring technician shall make application for a
14 certificate of competence license in his or her respective trade.
15 The application shall include the applicant's social security
16 number. Such application shall be made to the department which
17 shall charge an application fee established as provided in section
18 71-162 for the filing of such application, and the department shall
19 not act upon any application until the application fee for such
20 certificate has been paid. A certificate license shall be issued to
21 every applicant who successfully passes the examination for such
22 certificate, pays the appropriate certification fee, license and
23 otherwise complies with the Uniform Credentialing Act, the Water
24 Well Standards and Contractors' Licensing Practice Act, and all
25 standards, rules, and regulations adopted and promulgated pursuant

1 to such ~~act-~~ acts. Any individual employed by a licensed water
2 well contractor or a licensed pump installation contractor who is
3 not deemed to qualify as a licensed water well drilling supervisor
4 or licensed pump installation supervisor may ~~make application for~~
5 ~~a certificate of competence~~ apply for a license in his or her
6 respective trade in the same manner as the licensed water well
7 drilling supervisor or the licensed pump installation supervisor.
8 A supervisor holding a certificate of competence in his or her
9 respective trade on December 1, 2008, shall be deemed to be
10 licensed as a supervisor in such trade on such date. A technician
11 holding a certificate of competence in his or her respective trade
12 on December 1, 2008, shall be deemed to be licensed as a technician
13 in such trade on such date.

14 Sec. 1167. Section 46-1233, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 46-1233 No water well shall be constructed, no pump or
17 pumping equipment shall be installed, and no water well shall be
18 decommissioned by a person engaged in the construction of water
19 wells or installation of pumps and pumping equipment unless the
20 construction, installation, or decommissioning is carried out or
21 supervised by a licensed water well contractor, water well drilling
22 supervisor, pump installation contractor, or pump installation
23 supervisor. (1) Any person constructing a water well, installing or
24 repairing pumps onsite, or decommissioning a water well shall do
25 such work in accordance with the rules and regulations developed

1 under the Water Well Standards and Contractors' Practice Act.

2 (2) A water well shall be constructed, pumps and pumping
3 equipment shall be installed and repaired onsite, and water wells
4 shall be decommissioned by a licensed contractor or supervisor
5 or a person working directly under the supervision of a licensed
6 contractor or supervisor, except that an individual may construct
7 a water well or install and repair pumps and pumping equipment
8 onsite on land owned by him or her and used by him or her for
9 farming, ranching, or agricultural purposes or as his or her place
10 of abode. No water well shall be opened or the seal broken by any
11 person other than an owner of the water well unless (a) the opening
12 or breaking of the seal is carried out by a licensed water well
13 monitoring technician or a licensed natural resources ground water
14 technician, (b) the opening or breaking of the seal is carried
15 out by a licensed operator of a public water system in the course
16 of his or her employment or someone under his or her supervision,
17 or (c) a state electrical inspector in the course of his or her
18 employment.

19 (3) For purposes of this section, supervision means the
20 ready availability of the person licensed ~~or~~ certified pursuant to
21 the Water Well Standards and Contractors' ~~Licensing~~ Practice Act
22 for consultation and direction of the activities of any person
23 not licensed ~~or~~ certified who assists in the construction of
24 a water well, the installation of pumps and pumping equipment,
25 or decommissioning of a water well. Contact with the licensed

1 contractor or ~~certified~~ supervisor by telecommunication shall be
 2 sufficient to show ready availability.

3 Sec. 1168. Section 46-1235, Reissue Revised Statutes of
 4 Nebraska, as amended by section 210, Legislative Bill 296, One
 5 Hundredth Legislature, First Session, 2007, is amended to read:

6 46-1235 In cases other than those relating to failure
 7 to meet the requirements for an initial license, ~~or an initial~~
 8 ~~certificate,~~ the department may deny, refuse renewal of, suspend,
 9 or revoke licenses ~~or certificates~~ or may take other disciplinary
 10 action in accordance with section 96 of this act for the grounds
 11 found in sections 78 and 79 of this act and for any of the
 12 following acts or offenses:

13 ~~(1) Practice of fraud or deceit in obtaining a license or~~
 14 ~~certificate;~~

15 ~~(2)~~ (1) Violation of the Water Well Standards and
 16 Contractors' Licensing Practice Act or any standards, rules, or
 17 regulations adopted and promulgated pursuant to such act;

18 ~~(3) Incompetence or gross negligence in the performance~~
 19 ~~of any activity for which licenses or certificates are issued~~
 20 ~~pursuant to the act;~~

21 ~~(4)~~ (2) Conduct or practices detrimental to the health
 22 or safety of persons hiring the services of the licensee ~~or~~
 23 ~~certificate holder~~ or of members of the general public;

24 ~~(5) Practice of the trade fraudulently, beyond the~~
 25 ~~authorized scope, or with manifest incapacity;~~

1 ~~(6)~~ Practice of the trade while the ability to practice
2 is impaired by alcohol, controlled substances, narcotic drugs, or
3 physical disability;

4 ~~(7)~~ Permitting, aiding, or abetting the practice of the
5 trade or the performance of activities requiring a license or
6 certificate by a person not licensed or certified to do so;

7 ~~(8)~~ Having had a license or certificate denied,
8 refused renewal, limited, suspended, or revoked or having been
9 disciplined in any other manner by another state or jurisdiction
10 to practice water well construction, water well drilling, water
11 well decommissioning, or pump installation based upon acts by
12 the applicant, licensee, or certificate holder similar to acts
13 described in this section. A certified copy of the record of
14 denial, refusal of renewal, limitation, suspension, or revocation
15 of a license or certificate or the taking of other disciplinary
16 action by another state or jurisdiction shall be conclusive
17 evidence;

18 ~~(9)~~ Unprofessional conduct as may be defined in rules and
19 regulations of the board with approval of the department;

20 ~~(10)~~ (3) Practice of the trade while the license or
21 certificate to do so is suspended or practice of the trade
22 in contravention of any limitation placed upon the license; or
23 certificate;

24 ~~(11)~~ (4) Failing to file a water well registration
25 required by subsection (1), (2), (3), (4), or (5) of section 46-602

1 or failing to file a notice required by subsection (7) of such
2 section; or

3 ~~(12)~~ (5) Failing to file a properly completed notice of
4 abandonment of a water well required by subsection (8) of section
5 46-602.

6 A licensee or certificate holder shall not engage in the
7 practice of the trade after a license or certificate is revoked
8 or during the time for which it is suspended. If a license or
9 certificate is suspended, the suspension shall be for a definite
10 period of time to be fixed by the department, and such license or
11 certificate shall be automatically reinstated upon the expiration
12 of such period if the current renewal fee has been paid. If such
13 license or certificate is revoked, such revocation shall be for one
14 year.

15 Sec. 1169. Section 46-1238, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 46-1238 Any person who fails to employ or use at least
18 one individual appropriately licensed or certified and available or
19 any person who engages, without a license or certificate for such
20 activities, in the construction of water wells, the installation of
21 pumps and pumping equipment, the decommissioning of water wells,
22 or the measuring of ground water levels, the collection of ground
23 water samples from existing water wells, or the inspection of
24 installed water well equipment, pumping systems, or chemigation
25 regulation devices, in addition to the other penalties provided

1 in the Uniform Credentialing Act or the Water Well Standards
2 and Contractors' Licensing Practice Act, may be enjoined from
3 continuing such activities.

4 Sec. 1170. Section 46-1239, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 46-1239 Any person who fails to employ or use at least
7 one individual appropriately licensed ~~or certified~~ and available or
8 any person who engages, without a license ~~or certificate~~ for such
9 activities, in the construction of water wells, the installation of
10 pumps and pumping equipment, or the decommissioning of water wells
11 is guilty of a Class II misdemeanor or subject to a civil penalty
12 of not more than one thousand dollars for each day the violation
13 occurs.

14 Any civil penalty assessed and unpaid shall constitute a
15 debt to the state which may be collected in the manner of a lien
16 foreclosure or sued for and recovered in a proper form of action in
17 the name of the state in the district court of the county in which
18 the violator resides or owns property. An action to collect a civil
19 penalty shall be brought within two years of the alleged violation
20 providing the basis of the penalty, except that if the cause of
21 action is not discovered and could not be reasonably discovered
22 within the two-year period, the action may be commenced within two
23 years after the date of discovery or after the date of discovery
24 of facts which would reasonably lead to discovery, whichever is
25 earlier. The department shall remit the civil penalty to the State

1 Treasurer, within thirty days after receipt, for distribution in
2 accordance with Article VII, section 5, of the Constitution of
3 Nebraska.

4 Sec. 1171. Section 46-1240, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 46-1240 Any person who engages in or any person who
7 employs or uses a person who engages in the construction of
8 water wells, the installation of pumps and pumping equipment,
9 the decommissioning of water wells, or the measuring of ground
10 water levels, the collection of ground water samples from existing
11 water wells, or the inspection of installed water well equipment,
12 pumping systems, or chemigation regulation devices or who fails
13 to decommission or decommissions an illegal water well without
14 complying with the standards adopted and promulgated pursuant to
15 the Water Well Standards and Contractors' Licensing Practice Act
16 shall be guilty of a Class III misdemeanor or subject to a civil
17 penalty of not more than five hundred dollars for each day an
18 intentional violation occurs and may be enjoined from continuing
19 such activity, including a mandatory injunction.

20 Any civil penalty assessed and unpaid shall constitute a
21 debt to the state which may be collected in the manner of a lien
22 foreclosure or sued for and recovered in a proper form of action
23 in the name of the state in the district court of the county in
24 which the violator resides or owns property. An action to collect
25 a civil penalty shall be brought within two years of the alleged

1 violation providing the basis of the penalty, except that if the
2 cause of action is not discovered and could not be reasonably
3 discovered within the two-year period, the action may be commenced
4 within two years after the date of discovery or after the date
5 of discovery of facts which would reasonably lead to discovery,
6 whichever is earlier. The department shall ~~within thirty days~~
7 ~~after receipt~~, remit the civil penalty to the State Treasurer,
8 within thirty days after receipt, for credit to the permanent
9 school fund, distribution in accordance with Article VII, section
10 5, of the Constitution of Nebraska.

11 Sec. 1172. Section 46-1241, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 46-1241 Any owner of a water well or a licensed water
14 well contractor who engages in an act of or the business of
15 constructing a water well shall keep and maintain an accurate well
16 log of the construction of each such water well. The well log shall
17 be available to the department for inspection and copying during
18 reasonable hours or the regular business hours of the contractor.

19 The well log shall include the following information:

20 (1) Legal description of the water well;

21 (2) Description and depth of geologic materials
22 encountered;

23 (3) Depth and diameter or dimension of constructed water
24 well and test hole;

25 (4) Depth and diameter or dimension of excavated hole if

- 1 applicable;
- 2 (5) Depth of formation stabilizer or gravel pack and size
3 of particles if used;
- 4 (6) Depth and thickness of grout or other sealing
5 material if applicable;
- 6 (7) Casing information, including length, inside
7 diameter, wall thickness, and type of material if applicable;
- 8 (8) Screen information, including length, trade name,
9 inside and outside diameter, slot size, and type of material if
10 applicable;
- 11 (9) Static water level;
- 12 (10) Water level when pumped at the designated rate,
13 giving the rate of pumping and amount of time pumped, if
14 applicable;
- 15 (11) Yield of water well in gallons per minute or gallons
16 per hour if applicable;
- 17 (12) Signature of water well contractor;
- 18 (13) Dates drilling commenced and construction completed;
- 19 (14) Intended use of the water well;
- 20 (15) Name and address of the owner;
- 21 (16) Identification number of any permit for the water
22 well issued pursuant to Chapter 46, article 6, Chapter 66, article
23 11, or any other law;
- 24 (17) Name, address, and license number of any license
25 issued pursuant to the Water Well Standards and Contractors'

1 ~~Licensing Practice Act~~ of any person, other than the owner of the
2 water well, who constructed the water well; and

3 (18) Other data as the board reasonably requires.

4 Sec. 1173. Section 54-311, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 54-311 It shall be unlawful for the owner or holder of
7 any real estate in the State of Nebraska to leave uncovered any
8 well or other pitfall into which any person or animal may fall or
9 receive injury. Every pitfall shall be filled, adequately covered,
10 or enclosed so as not to constitute a safety hazard. Every well
11 not in use shall be decommissioned or properly placed in inactive
12 status in accordance with the Water Well Standards and Contractors'
13 ~~Licensing Practice Act~~ so as not to constitute a safety hazard.

14 Sec. 1174. Section 60-4,118.02, Reissue Revised Statutes
15 of Nebraska, is amended to read:

16 60-4,118.02 (1) There is hereby created the Health
17 Advisory Board which shall consist of six health care providers
18 appointed by the director with the advice and recommendation of
19 the Director of Regulation and Licensure. The members of the board
20 shall consist of one general practice physician, one physician
21 engaged in the practice of ophthalmology, one physician engaged in
22 the practice of orthopedic surgery, one physician engaged in the
23 practice of neurological medicine and surgery, one optometrist, and
24 one psychiatrist. Each member of the board shall be licensed to
25 practice his or her profession pursuant to the Uniform ~~Licensing~~

1 ~~Law-~~ Credentialing Act.

2 (2) Of the initial members of the board, two shall be
3 appointed for four years, two shall be appointed for three years,
4 and two shall be appointed for two years. Thereafter, each member
5 shall be appointed for a term of four years and until a successor
6 is appointed and qualified. If a vacancy occurs for any reason
7 other than the expiration of a term, the Director of Motor Vehicles
8 may appoint a person licensed in the same type of professional
9 practice as the member being replaced to serve out the unexpired
10 term. Members of the board shall be reimbursed for their actual and
11 necessary expenses as provided in sections 81-1174 to 81-1177.

12 (3) The board shall meet as necessary at the call of the
13 director. At the initial meeting of the board following completion
14 of the initial appointments, the board shall select from among its
15 members a chairperson and shall designate any other officers or
16 committees as it deems necessary. The board may select officers and
17 committees annually or as necessary to fill vacancies and to carry
18 out duties of the board.

19 Sec. 1175. Section 60-6,261, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 60-6,261 Sections 60-6,257 to 60-6,259 shall not apply
22 to the side or rear windows of funeral coaches, hearses, or other
23 vehicles operated in the normal course of business by a funeral
24 establishment licensed under section ~~71-1327.~~ 555 of this act.

25 Sec. 1176. Section 69-302, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 69-302 For purposes of the Mail Order Contact Lens Act:

3 (1) Contact lens prescription means a written order
4 bearing the original signature of an optometrist or physician or an
5 oral or electromagnetic order issued by an optometrist or physician
6 that authorizes the dispensing of contact lenses to a patient and
7 meets the requirements of section 69-303;

8 (2) Department means the Department of Health and Human
9 Services Regulation and Licensure;

10 (3) Mail-order ophthalmic provider means an entity that
11 ships, mails, or in any manner delivers dispensed contact lenses to
12 Nebraska residents;

13 (4) Optometrist means a person licensed to practice
14 optometry pursuant to ~~sections 71-1,133 to 71-1,136.09;~~ the
15 Optometry Practice Act; and

16 (5) Physician means a person licensed to practice
17 medicine and surgery pursuant to ~~sections 71-1,102 to 71-1,107.14.~~
18 the Medicine and Surgery Practice Act.

19 Sec. 1177. Section 69-2429, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 69-2429 For purposes of the Concealed Handgun Permit Act:

22 (1) Concealed handgun means the handgun is totally hidden
23 from view. If any part of the handgun is capable of being seen, it
24 is not a concealed handgun;

25 (2) Emergency services personnel means a volunteer or

1 paid firefighter or rescue squad member or a person ~~certified~~
2 licensed to provide emergency medical services pursuant to the
3 Emergency Medical Services Practice Act;

4 (3) Handgun means any firearm with a barrel less than
5 sixteen inches in length or any firearm designed to be held and
6 fired by the use of a single hand;

7 (4) Peace officer means any town marshal, chief of
8 police or local police officer, sheriff or deputy sheriff, the
9 Superintendent of Law Enforcement and Public Safety, any officer
10 of the Nebraska State Patrol, any member of the National Guard
11 on active service by direction of the Governor during periods
12 of emergency or civil disorder, any Game and Parks Commission
13 conservation officer, and all other persons with similar authority
14 to make arrests;

15 (5) Permitholder means an individual holding a current
16 and valid permit to carry a concealed handgun issued pursuant to
17 the Concealed Handgun Permit Act; and

18 (6) Proof of training means an original document or
19 certified copy of a document, supplied by an applicant, that
20 certifies that he or she either:

21 (a) Within the previous three years, has successfully
22 completed a handgun training and safety course approved by the
23 Nebraska State Patrol pursuant to section 69-2432; or

24 (b) Is a member of the active or reserve armed forces of
25 the United States or a member of the National Guard and has had

1 handgun training within the previous three years which meets the
2 minimum safety and training requirements of section 69-2432.

3 Sec. 1178. Section 71-1,190, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-1,190 (1) Every applicant for a license to practice
6 audiology or speech-language pathology shall (1) (a)(i) for
7 applicants graduating prior to the operative date of this section,
8 present proof of a master's degree, a doctoral degree, or its the
9 equivalent of a master's degree or doctoral degree in audiology
10 or speech-language pathology from an academic program approved by
11 the board, (2) and (ii) for applicants graduating on or after the
12 operative date of this section, present proof of a doctoral degree
13 or its equivalent in audiology, (b) present proof of at least
14 nine calendar months no less than thirty-six weeks of full-time
15 professional experience or eighteen months of at least equivalent
16 half-time professional experience in speech-language pathology or
17 audiology, supervised in the area in which licensure is sought,
18 and (3) (c) successfully complete an examination approved by the
19 department on recommendation of the board.

20 (2) Every applicant for a license to practice
21 speech-language pathology shall (a) present proof of a master's
22 degree, a doctoral degree, or the equivalent of a master's degree
23 or doctoral degree in speech-language pathology from an academic
24 program approved by the board, (b) present proof of no less than
25 thirty-six weeks of full-time professional experience or equivalent

1 half-time professional experience in speech-language pathology,
2 supervised in the area in which licensure is sought, and (c)
3 successfully complete an examination approved by the board.

4 (3) Presentation of official documentation of
5 certification by a nationwide professional accrediting organization
6 approved by the board shall be deemed equivalent to ~~subdivisions~~
7 ~~(1)~~, ~~(2)~~, and ~~(3)~~ the requirements of this section.

8 Sec. 1179. Section 71-414, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-414 Health care practitioner facility means the
11 residence, office, or clinic of a practitioner or group of
12 practitioners credentialed under the Uniform Licensing Law
13 Credentialing Act or any distinct part of such residence, office,
14 or clinic.

15 Sec. 1180. Section 71-425, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-425 Pharmacy means a facility advertised as a
18 pharmacy, drug store, hospital pharmacy, dispensary, or any
19 combination of such titles where drugs or devices are dispensed as
20 defined in ~~section 71-1,142.~~ the Pharmacy Practice Act.

21 Sec. 1181. Section 71-448, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-448 The department may take disciplinary action
24 against a license issued under the Health Care Facility Licensure
25 Act on any of the following grounds:

1 (1) Violation of any of the provisions of the
2 Assisted-Living Facility Act, the Health Care Facility Licensure
3 Act, the Nebraska Nursing Home Act, or the rules and regulations
4 adopted and promulgated under such acts;

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

7 (3) Conduct or practices detrimental to the health or
8 safety of a person residing in, served by, or employed at the
9 health care facility or health care service;

10 (4) A report from an accreditation body or public
11 agency sanctioning, modifying, terminating, or withdrawing the
12 accreditation or certification of the health care facility or
13 health care service;

14 (5) Failure to allow an agent or employee of the
15 Department of Health and Human Services, the Department of Health
16 and Human Services Finance and Support, or the Department of
17 Health and Human Services Regulation and Licensure access to the
18 health care facility or health care service for the purposes
19 of inspection, investigation, or other information collection
20 activities necessary to carry out the duties of such departments;

21 (6) Discrimination or retaliation against a person
22 residing in, served by, or employed at the health care facility or
23 health care service who has submitted a complaint or information
24 to the Department of Health and Human Services, the Department of
25 Health and Human Services Finance and Support, or the Department of

1 Health and Human Services Regulation and Licensure;

2 (7) Discrimination or retaliation against a person
3 residing in, served by, or employed at the health care facility or
4 health care service who has presented a grievance or information to
5 the office of the state long-term care ombudsman;

6 (8) Failure to allow a state long-term care ombudsman or
7 an ombudsman advocate access to the health care facility or health
8 care service for the purposes of investigation necessary to carry
9 out the duties of the office of the state long-term care ombudsman
10 as specified in the rules and regulations adopted and promulgated
11 by the Department of Health and Human Services;

12 (9) Violation of the Emergency Box Drug Act;

13 (10) Failure to file a report required by section
14 ~~71-168.02~~, 127 of this act;

15 (11) Violation of the Medication Aide Act; or

16 (12) Failure to file a report of suspected abuse or
17 neglect as required by sections 28-372 and 28-711.

18 Sec. 1182. Section 71-507, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 71-507 For purposes of sections 71-507 to 71-513:

21 (1) Alternate facility means a facility other than a
22 health care facility that receives a patient transported to the
23 facility by an emergency services provider;

24 (2) Department means the Department of Health and Human
25 Services Regulation and Licensure;

1 (3) Designated physician means the physician representing
2 the emergency services provider as identified by name, address,
3 and telephone number on the significant exposure report form. The
4 designated physician shall serve as the contact for notification in
5 the event an emergency services provider believes he or she has had
6 significant exposure to an infectious disease or condition. Each
7 emergency services provider shall designate a physician as provided
8 in subsection (2) of section 71-509;

9 (4) Emergency services provider means an out-of-hospital
10 emergency care provider ~~certified~~ licensed pursuant to the
11 Emergency Medical Services Practice Act, a sheriff, a deputy
12 sheriff, a police officer, a state highway patrol officer, a
13 funeral director, a paid or volunteer firefighter, a school
14 district employee, and a person rendering emergency care
15 gratuitously as described in section 25-21,186;

16 (5) Funeral director means a person licensed under
17 section ~~71-1302~~ 550 of this act or an employee of such a person
18 with responsibility for transport or handling of a deceased human;

19 (6) Funeral establishment means a business licensed under
20 section ~~71-1327~~, 555 of this act;

21 (7) Health care facility has the meaning found in
22 sections 71-419, 71-420, 71-424, and 71-429 or any facility
23 that receives patients of emergencies who are transported to
24 the facility by emergency services providers;

25 (8) Infectious disease or condition means hepatitis

1 B, hepatitis C, meningococcal meningitis, active pulmonary
2 tuberculosis, human immunodeficiency virus, diphtheria, plague,
3 hemorrhagic fevers, rabies, and such other diseases as the
4 department may by rule and regulation specify;

5 (9) Patient means an individual who is sick, injured,
6 wounded, deceased, or otherwise helpless or incapacitated;

7 (10) Patient's attending physician means the physician
8 having the primary responsibility for the patient as indicated on
9 the records of a health care facility;

10 (11) Provider agency means any law enforcement agency,
11 fire department, emergency medical service, funeral establishment,
12 or other entity which employs or directs emergency services
13 providers or public safety officials;

14 (12) Public safety official means a sheriff, a deputy
15 sheriff, a police officer, a state highway patrol officer, a paid
16 or volunteer firefighter, a school district employee, and any
17 civilian law enforcement employee or volunteer performing his or
18 her duties, other than those as an emergency services provider;

19 (13) Responsible person means an individual who has been
20 designated by an alternate facility to carry out the facility's
21 responsibilities under sections 71-507 to 71-513. A responsible
22 person may be designated on a case-by-case basis;

23 (14) Significant exposure means a situation in which
24 the body fluids, including blood, saliva, urine, respiratory
25 secretions, or feces, of a patient or individual have entered

1 the body of an emergency services provider or public safety
2 official through a body opening including the mouth or nose, a
3 mucous membrane, or a break in skin from cuts or abrasions, from
4 a contaminated needlestick or scalpel, from intimate respiratory
5 contact, or through any other situation when the patient's or
6 individual's body fluids may have entered the emergency services
7 provider's or public safety official's body or when an airborne
8 pathogen may have been transmitted from the patient or individual
9 to the emergency services provider or public safety official; and

10 (15) Significant exposure report form means the form
11 used by the emergency services provider to document information
12 necessary for notification of significant exposure to an infectious
13 disease or condition.

14 Sec. 1183. Section 71-1,104.01, Revised Statutes
15 Cumulative Supplement, 2006, as amended by section 333, Legislative
16 Bill 296, One Hundredth Legislature, First Session, 2007, is
17 amended to read:

18 ~~71-1,104.01~~ (1) Except as provided in section 71-519
19 and except for newborn screening tests ordered by physicians to
20 comply with the law of the state in which the infant was born,
21 a physician or an individual to whom the physician has delegated
22 authority to perform a selected act, task, or function shall not
23 order a predictive genetic test without first obtaining the written
24 informed consent of the patient to be tested. Written informed
25 consent consists of a signed writing executed by the patient

1 or the representative of a patient lacking decisional capacity
2 that confirms that the physician or individual acting under the
3 delegated authority of the physician has explained, and the patient
4 or his or her representative understands:

5 (a) The nature and purpose of the predictive genetic
6 test;

7 (b) The effectiveness and limitations of the predictive
8 genetic test;

9 (c) The implications of taking the predictive genetic
10 test, including the medical risks and benefits;

11 (d) The future uses of the sample taken to conduct the
12 predictive genetic test and the genetic information obtained from
13 the predictive genetic test;

14 (e) The meaning of the predictive genetic test results
15 and the procedure for providing notice of the results to the
16 patient; and

17 (f) Who will have access to the sample taken to conduct
18 the predictive genetic test and the genetic information obtained
19 from the predictive genetic test, and the patient's right to
20 confidential treatment of the sample and the genetic information.

21 (2) The ~~department~~ Department of Health and Human
22 Services shall develop and distribute a model informed consent form
23 for purposes of this section. The department shall include in the
24 model form all of the information required under subsection (1)
25 of this section. The department shall distribute the model form

1 and all revisions to the form to physicians and other individuals
2 subject to this section upon request and at no charge. The
3 department shall review the model form at least annually for five
4 years after the first model form is distributed and shall revise
5 the model form if necessary to make the form reflect the latest
6 developments in medical genetics. The department may also develop
7 and distribute a pamphlet that provides further explanation of the
8 information included in the model form.

9 (3) If a patient or his or her representative signs a
10 copy of the model informed consent form developed and distributed
11 under subsection (2) of this section, the physician or individual
12 acting under the delegated authority of the physician shall give
13 the patient a copy of the signed informed consent form and shall
14 include the original signed informed consent form in the patient's
15 medical record.

16 (4) If a patient or his or her representative signs a
17 copy of the model informed consent form developed and distributed
18 under subsection (2) of this section, the patient is barred
19 from subsequently bringing a civil action for damages against
20 the physician, or an individual to whom the physician delegated
21 authority to perform a selected act, task, or function, who ordered
22 the predictive genetic test, based upon failure to obtain informed
23 consent for the predictive genetic test.

24 (5) A physician's duty to inform a patient under this
25 section does not require disclosure of information beyond what

1 a physician reasonably well-qualified to order and interpret
2 the predictive genetic test would know. A person acting under
3 the delegated authority of a physician shall understand and be
4 qualified to provide the information required by subsection (1) of
5 this section.

6 (6) For purposes of this section:

7 (a) Genetic information means information about a gene,
8 gene product, or inherited characteristic derived from a genetic
9 test;

10 (b) Genetic test means the analysis of human DNA, RNA,
11 chromosomes, epigenetic status, and those tissues, proteins, and
12 metabolites used to detect heritable or somatic disease-related
13 genotypes or karyotypes for clinical purposes. Tests of tissues,
14 proteins, and metabolites are included only when generally accepted
15 in the scientific and medical communities as being specifically
16 determinative of a heritable or somatic disease-related genetic
17 condition. Genetic test does not include a routine analysis,
18 including a chemical analysis, of body fluids or tissues unless
19 conducted specifically to determine a heritable or somatic
20 disease-related genetic condition. Genetic test does not include
21 a physical examination or imaging study. Genetic test does not
22 include a procedure performed as a component of biomedical research
23 that is conducted pursuant to federal common rule under 21 C.F.R.
24 parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed
25 on January 1, 2003; and

1 (c) Predictive genetic test means a genetic test for an
2 otherwise undetectable genotype or karyotype relating to the risk
3 for developing a genetically related disease or disability, the
4 results of which can be used to substitute a patient's prior risk
5 based on population data or family history with a risk based on
6 genotype or karyotype. Predictive genetic test does not include
7 diagnostic testing conducted on a person exhibiting clinical signs
8 or symptoms of a possible genetic condition. Predictive genetic
9 testing does not include prenatal genetic diagnosis, unless the
10 prenatal testing is conducted for an adult-onset condition not
11 expected to cause clinical signs or symptoms before the age of
12 majority.

13 Sec. 1184. Section 71-605, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 71-605 (1) The funeral director and embalmer in charge
16 of the funeral of any person dying in the State of Nebraska
17 shall cause a certificate of death to be filled out with all the
18 particulars contained in the standard form adopted and promulgated
19 by the department. Such standard form shall include a space for
20 veteran status and the period of service in the armed forces of
21 the United States and a statement of the cause of death made by
22 a person holding a valid license as a physician who last attended
23 the deceased. The standard form shall also include the deceased's
24 social security number. Death and fetal death certificates shall
25 be completed by the funeral directors and embalmers and physicians

1 for the purpose of filing with the department and providing child
2 support enforcement information pursuant to section 43-3340.

3 (2) The physician shall have the responsibility and duty
4 to complete and sign in his or her own handwriting or by electronic
5 means pursuant to section 71-603.01, within twenty-four hours from
6 the time of death, that part of the certificate of death entitled
7 medical certificate of death. In the case of a death when no person
8 licensed as a physician was in attendance, the funeral director
9 and embalmer shall refer the case to the county attorney who shall
10 have the responsibility and duty to complete and sign the death
11 certificate in his or her own handwriting or by electronic means
12 pursuant to section 71-603.01.

13 No cause of death shall be certified in the case of
14 the sudden and unexpected death of a child between the ages of
15 one week and three years until an autopsy is performed at county
16 expense by a qualified pathologist pursuant to section 23-1824. The
17 parents or guardian shall be notified of the results of the autopsy
18 by their physician, community health official, or county coroner
19 within forty-eight hours. The term sudden infant death syndrome
20 shall be entered on the death certificate as the principal cause of
21 death when the term is appropriately descriptive of the pathology
22 findings and circumstances surrounding the death of a child.

23 If the circumstances show it possible that death was
24 caused by neglect, violence, or any unlawful means, the case
25 shall be referred to the county attorney for investigation and

1 certification. The county attorney shall, within twenty-four hours
2 after taking charge of the case, state the cause of death as
3 ascertained, giving as far as possible the means or instrument
4 which produced the death. All death certificates shall show clearly
5 the cause, disease, or sequence of causes ending in death. If
6 the cause of death cannot be determined within the period of time
7 stated above, the death certificate shall be filed to establish
8 the fact of death. As soon as possible thereafter, and not more
9 than six weeks later, supplemental information as to the cause,
10 disease, or sequence of causes ending in death shall be filed with
11 the department to complete the record. For all certificates stated
12 in terms that are indefinite, insufficient, or unsatisfactory for
13 classification, inquiry shall be made to the person completing
14 the certificate to secure the necessary information to correct or
15 complete the record.

16 (3) A completed death certificate shall be filed with the
17 department within five business days after the date of death. If
18 it is impossible to complete the certificate of death within five
19 business days, the funeral director and embalmer shall notify the
20 department of the reason for the delay and file the certificate as
21 soon as possible.

22 (4) Before any dead human body may be cremated, a
23 cremation permit shall first be signed by the county attorney, or
24 by his or her authorized representative as designated by the county
25 attorney in writing, of the county in which the death occurred on a

1 form prescribed and furnished by the department.

2 (5) A permit for disinterment shall be required prior to
3 disinterment of a dead human body. The permit shall be issued by
4 the department to a licensed funeral director and embalmer upon
5 proper application. The request for disinterment shall be made by
6 the next of kin of the deceased, as listed in section ~~71-1339,~~
7 561 of this act, or a county attorney on a form furnished by the
8 department. The application shall be signed by the funeral director
9 and embalmer who will be directly supervising the disinterment.
10 When the disinterment occurs, the funeral director and embalmer
11 shall sign the permit giving the date of disinterment and file the
12 permit with the department within ten days of the disinterment.

13 (6) When a request is made under subsection (5) of this
14 section for the disinterment of more than one dead human body, an
15 order from a court of competent jurisdiction shall be submitted to
16 the department prior to the issuance of a permit for disinterment.
17 The order shall include, but not be limited to, the number of
18 bodies to be disinterred if that number can be ascertained, the
19 method and details of transportation of the disinterred bodies,
20 the place of reinterment, and the reason for disinterment. No
21 sexton or other person in charge of a cemetery shall allow the
22 disinterment of a body without first receiving from the department
23 a disinterment permit properly completed.

24 (7) No dead human body shall be removed from the
25 state for final disposition without a transit permit issued by

1 the funeral director and embalmer having charge of the body in
2 Nebraska, except that when the death is subject to investigation,
3 the transit permit shall not be issued by the funeral director and
4 embalmer without authorization of the county attorney of the county
5 in which the death occurred. No agent of any transportation company
6 shall allow the shipment of any body without the properly completed
7 transit permit prepared in duplicate.

8 (8) The interment, disinterment, or reinterment of a
9 dead human body shall be performed under the direct supervision
10 of a licensed funeral director and embalmer, except that hospital
11 disposition may be made of the remains of a child born dead
12 pursuant to section 71-20,121.

13 (9) All transit permits issued in accordance with the
14 law of the place where the death occurred in a state other than
15 Nebraska shall be signed by the funeral director and embalmer
16 in charge of burial and forwarded to the department within five
17 business days after the interment takes place.

18 Sec. 1185. Section 71-906, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 71-906 Mental health professional means a person licensed
21 to practice medicine and surgery or psychology in this state under
22 the Uniform ~~Licensing Law~~ Credentialing Act or an advanced practice
23 registered nurse licensed under the Advanced Practice Registered
24 Nurse Practice Act who has proof of current certification in a
25 psychiatric or mental health specialty.

1 Sec. 1186. Section 71-1356, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1356 For purposes of the Cremation of Human Remains
4 Act, unless the context otherwise requires:

5 (1) Alternative container means a container in which
6 human remains are placed in a cremation chamber for cremation;

7 (2) Authorizing agent means a person vested with the
8 right to control the disposition of human remains pursuant to
9 section ~~71-1339~~, 561 of this act;

10 (3) Casket means a rigid container made of wood, metal,
11 or other similar material, ornamented and lined with fabric, which
12 is designed for the encasement of human remains;

13 (4) Cremated remains means the residue of human
14 remains recovered after cremation and the processing of such
15 remains by pulverization, leaving only bone fragments reduced to
16 unidentifiable dimensions, and the unrecoverable residue of any
17 foreign matter, such as eyeglasses, bridgework, or other similar
18 material, that was cremated with the human remains;

19 (5) Cremated remains receipt form means a form provided
20 by a crematory authority to an authorizing agent or his or her
21 representative that identifies cremated remains and the person
22 authorized to receive such remains;

23 (6) Cremation means the technical process that uses heat
24 and evaporation to reduce human remains to bone fragments;

25 (7) Cremation chamber means the enclosed space within

1 which a cremation takes place;

2 (8) Crematory means a building or portion of a building
3 which contains a cremation chamber and holding facility;

4 (9) Crematory authority means the legal entity subject to
5 licensure by the department to maintain and operate a crematory and
6 perform cremation;

7 (10) Crematory operator means a person who is responsible
8 for the operation of a crematory;

9 (11) Delivery receipt form means a form provided by a
10 funeral establishment to a crematory authority to document the
11 receipt of human remains by such authority for the purpose of
12 cremation;

13 (12) Department means the Department of Health and Human
14 Services Regulation and Licensure;

15 (13) Director means the Director of Regulation and
16 Licensure;

17 (14) Funeral director has the same meaning as in section
18 71-507;

19 (15) Funeral establishment has the same meaning as in
20 section ~~71-1301~~, 547 of this act;

21 (16) Holding facility means the area of a crematory
22 designated for the retention of human remains prior to cremation
23 and includes a refrigerated facility;

24 (17) Human remains means the body of a deceased person,
25 or a human body part, in any stage of decomposition and includes

1 limbs or other portions of the anatomy that are removed from a
2 person or human remains for medical purposes during treatment,
3 surgery, biopsy, autopsy, or medical research;

4 (18) Permanent container means a receptacle made of
5 durable material for the long-term placement of cremated remains;
6 and

7 (19) Temporary container means a receptacle made of
8 cardboard, plastic, or other similar material in which cremated
9 remains are placed prior to the placement of such remains in an urn
10 or other permanent container.

11 Sec. 1187. Section 71-1357, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-1357 A crematory shall not be established, operated,
14 or maintained in this state except by a crematory authority
15 licensed by the department under the Cremation of Human Remains
16 Act. The department shall issue a license to a crematory authority
17 that satisfies the requirements for licensure under the act. Human
18 remains shall not be cremated in this state except at a crematory
19 operated by a crematory authority licensed under the act. ~~Crematory~~
20 ~~authorities operating crematories on August 31, 2003, which apply~~
21 ~~for licensure within sixty days after August 31, 2003, shall be~~
22 ~~presumed to meet requirements for initial or provisional licensure~~
23 ~~under the act.~~

24 Sec. 1188. Section 71-1361, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-1361 (1) A crematory authority desiring to relocate a
2 crematory shall file a written application with the department at
3 least thirty days prior to the designated date of such relocation.
4 The application shall be accompanied by a fee ~~of not less than~~
5 ~~fifteen dollars and not more than one hundred fifty dollars,~~ as
6 determined by the department in rules and regulations.

7 (2) A crematory authority desiring to change ownership of
8 a crematory shall file a written application with the department at
9 least thirty days prior to the designated date of such change. The
10 application shall be accompanied by a fee ~~of not less than fifteen~~
11 ~~dollars and not more than one hundred fifty dollars,~~ as determined
12 by the department in rules and regulations.

13 (3) A crematory authority desiring to change its name
14 shall file a written application with the department at least
15 thirty days prior to such change. The application shall be
16 accompanied by a fee ~~of ten dollars.~~ determined by the department
17 in rules and regulations.

18 Sec. 1189. Section 71-1363, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-1363 (1) The fee for an initial or renewal license as
21 a crematory authority shall include a fee ~~of three hundred dollars.~~
22 determined by the department in rules and regulations.

23 (2) If the license application is denied, the license fee
24 shall be returned to the applicant, except that the department may
25 retain up to twenty-five dollars as an administrative fee and may

1 retain the entire license fee if an inspection has been completed
2 prior to such denial.

3 (3) The department shall collect the same fee as provided
4 in subsection (1) of this section for reinstatement of a license
5 that has lapsed or has been suspended. The department shall collect
6 a fee of ten dollars for a duplicate original license.

7 (4) The department shall collect a fee of twenty-five
8 dollars for a certified statement that a crematory authority is
9 licensed in this state and a fee of five dollars for verification
10 that a crematory authority is licensed in this state.

11 (5) The department shall adopt and promulgate rules and
12 regulations for the establishment of fees under the Cremation of
13 Human Remains Act.

14 (6) The department shall collect fees authorized under
15 the act and shall remit such fees to the State Treasurer for credit
16 to the Department of Health and Human Services Regulation and
17 Licensure Cash Fund. Such fees shall only be used for activities
18 related to the licensure of crematory authorities.

19 Sec. 1190. Section 71-1373, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-1373 The right to authorize the cremation of human
22 remains and the final disposition of the cremated remains, except
23 in the case of a minor subject to section 23-1824 and unless
24 other directions have been given by the decedent in the form of a
25 testamentary disposition or a pre-need contract, vests pursuant to

1 section ~~71-1339-~~ 561 of this act.

2 Sec. 1191. Section 71-17,102, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-17,102 For purposes of the Nursing Student Loan Act:

5 (1) Approved nursing program means a program offered by
6 a public or private institution in this state (a) which consists
7 of courses of instruction in regularly scheduled classes leading
8 to a master of science degree, a bachelor of science degree,
9 an associate degree, or a diploma in nursing or (b) for the
10 preparation for licensure as a licensed practical nurse available
11 to regularly enrolled undergraduate or graduate students;

12 (2) Department means the Department of Health and Human
13 Services Regulation and Licensure;

14 (3) Nontraditional student means a student who has not
15 attended classes as a regular full-time student for at least three
16 years; and

17 (4) Practice of nursing has the definition found in
18 section ~~71-1,132.05-~~ 766 of this act.

19 Sec. 1192. Section 71-17,113, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-17,113 Beginning January 1, 2006, through December 31,
22 2007, the Department of Health and Human Services Regulation and
23 Licensure shall charge a fee of one dollar, in addition to any
24 other fee, for each license renewal for a registered nurse or
25 licensed practical nurse pursuant to ~~section 71-1,132.20-~~ the Nurse

1 Practice Act. Such fee shall be collected at the time of renewal
2 and remitted to the State Treasurer for credit to the Nursing
3 Faculty Student Loan Cash Fund.

4 Sec. 1193. Section 71-2407, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-2407 (1) Any person operating a mail service pharmacy
7 outside of the State of Nebraska shall obtain a mail service
8 pharmacy license prior to shipping, mailing, or in any manner
9 delivering dispensed prescription drugs as defined in section
10 ~~71-1,142~~ 937 of this act into the State of Nebraska.

11 (2) To be qualified to hold a mail service pharmacy
12 license, a person shall:

13 (a) Hold a pharmacy license or permit issued by and valid
14 in the state in which the person is located and from which such
15 prescription drugs will be shipped, mailed, or otherwise delivered;

16 (b) Be located and operating in a state in which the
17 requirements and qualifications for obtaining and maintaining a
18 pharmacy license or permit are considered by the Department of
19 Health and Human Services Regulation and Licensure, with the
20 approval of the Board of Pharmacy, to be substantially equivalent
21 to the requirements of the Health Care Facility Licensure Act;

22 (c) Designate the Secretary of State as his, her, or its
23 agent for service of process in this state; and

24 (d) Employ on a full-time basis at least one pharmacist
25 who holds a current unrestricted pharmacist license issued

1 under the Uniform ~~Licensing Law~~ Credentialing Act who shall be
2 responsible for compliance by the mail service pharmacy with the
3 Mail Service Pharmacy Licensure Act. The mail service pharmacy
4 shall notify the department when such pharmacist is no longer
5 employed by such pharmacy.

6 (3) To obtain a mail service pharmacy license, a person
7 shall:

8 (a) File an application on a form developed by the
9 department; and

10 (b) Pay a fee equivalent to the fee for a pharmacy
11 license in the State of Nebraska pursuant to section 71-434.

12 (4) This section does not apply to prescription drugs
13 mailed, shipped, or otherwise delivered by a pharmaceutical company
14 to a laboratory for the purpose of conducting clinical research.

15 Sec. 1194. Section 71-2411, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-2411 For purposes of the Emergency Box Drug Act:

18 (1) Authorized personnel shall mean any medical doctor,
19 doctor of osteopathy, registered nurse, licensed practical nurse,
20 pharmacist, or physician's assistant;

21 (2) Department shall mean the Department of Health and
22 Human Services Regulation and Licensure;

23 (3) Drug shall mean any prescription drug or device or
24 legend drug or device defined under section ~~71-1,142,~~ 937 of this
25 act, any nonprescription drug as defined under section ~~71-1,142,~~

1 925 of this act, any controlled substance as defined under section
2 28-405, or any device as defined under section ~~71-1,142,~~ 910 of
3 this act;

4 (4) Emergency box drugs shall mean drugs required to meet
5 the immediate therapeutic needs of patients when the drugs are not
6 available from any other authorized source in time to sufficiently
7 prevent risk of harm to such patients by the delay resulting from
8 obtaining such drugs from such other authorized source;

9 (5) Institution shall mean an intermediate care facility,
10 an intermediate care facility for the mentally retarded, a mental
11 health center, a nursing facility, and a skilled nursing facility,
12 as such terms are defined in sections 71-420, 71-421, 71-423,
13 71-424, and 71-429;

14 (6) Institutional pharmacy shall mean the physical
15 portion of an institution engaged in the compounding, dispensing,
16 and labeling of drugs which is operating pursuant to a pharmacy
17 license issued by the department under the Health Care Facility
18 Licensure Act;

19 (7) Multiple dose vial shall mean any bottle in which
20 more than one dose of a liquid drug is stored or contained; and

21 (8) Supplying pharmacist shall mean the pharmacist in
22 charge of an institutional pharmacy or a pharmacist who provides
23 emergency box drugs to an institution pursuant to the Emergency
24 Box Drug Act. Supplying pharmacist shall not include any agent or
25 employee of the supplying pharmacist who is not a pharmacist.

1 Sec. 1195. Section 71-2412, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-2412 (1) Each institutional pharmacy shall be directed
4 by a pharmacist, referred to as the pharmacist in charge as defined
5 in section ~~71-1,142,~~ 929 of this act, who is licensed to engage in
6 the practice of pharmacy in this state.

7 (2) For an institution that does not have an
8 institutional pharmacy or during such times as an institutional
9 pharmacy may be unattended by a pharmacist, drugs may be
10 administered to residents of the institution by authorized
11 personnel of the institution from the contents of emergency boxes
12 located within such facility if such drugs and boxes meet all of
13 the following requirements:

14 (a) All emergency box drugs shall be provided by and
15 all emergency boxes containing such drugs shall be sealed by a
16 supplying pharmacist with the seal on such emergency box to be
17 of such a nature that it can be easily identified if it has been
18 broken;

19 (b) Emergency boxes shall be stored in a medication room
20 or other secured area within the institution. Only the supplying
21 pharmacist or authorized personnel of the institution shall obtain
22 access to such room or secured area, by key or combination,
23 in order to prevent unauthorized access and to ensure a proper
24 environment for preservation of the emergency box drugs;

25 (c) The exterior of each emergency box shall be labeled

1 so as to clearly indicate that it is an emergency box for use
2 in emergencies only. The label shall contain a listing of the
3 drugs contained in the box, including the name, strength, route of
4 administration, quantity, and expiration date of each drug, and the
5 name, address, and telephone number of the supplying pharmacist;

6 (d) The expiration date of an emergency box shall be the
7 earliest date of expiration of any drug contained in the box;

8 (e) All emergency boxes shall be inspected by the
9 supplying pharmacist or another pharmacist designated by the
10 supplying pharmacist at least once every thirty days to determine
11 the expiration date and quantity of the drugs in the box. Every
12 inspection shall be documented and the record retained by the
13 institution for a period of two years;

14 (f) An emergency box shall not contain any multiple
15 dose vials and shall not contain more than ten drugs which are
16 controlled substances; and

17 (g) All drugs in emergency boxes shall be in the
18 original manufacturer's containers or shall be repackaged by the
19 supplying pharmacist and shall include the manufacturer's name,
20 lot number, drug name, strength, dosage form, NDC number, route
21 of administration, and expiration date on a typewritten label. Any
22 drug which is repackaged shall contain on the label the calculated
23 expiration date. For purposes of the Emergency Box Drug Act,
24 calculated expiration date has the same meaning as in subdivision
25 (7) (b) of section ~~71-1,147.53.~~ 980 of this act.

1 Sec. 1196. Section 71-2418, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-2418 (1) The Legislature finds that many controlled
4 substances have useful and legitimate medical and scientific
5 purposes and are necessary to maintain the health and general
6 welfare of the people of Nebraska. Principles of quality medical
7 practice dictate that the people of Nebraska have access to
8 appropriate and effective pain relief.

9 (2) The Legislature finds that the appropriate
10 application of up-to-date knowledge and treatment modalities can
11 serve to improve the quality of life for those patients who suffer
12 from pain. The Legislature therefor encourages physicians to view
13 effective pain management as a part of quality medical practice for
14 all patients with pain, acute or chronic, including those patients
15 who experience pain as a result of terminal illness.

16 (3) The Legislature finds that a physician should be able
17 to prescribe, dispense, or administer a controlled substance in
18 excess of the recommended dosage for the treatment of pain so long
19 as such dosage is not administered for the purpose of causing, or
20 the purpose of assisting in causing, death for any reason and so
21 long as it conforms to policies and guidelines for the treatment of
22 pain adopted by the Board of ~~Examiners~~ in Medicine and Surgery.

23 (4) The Legislature finds that a health care facility,
24 hospice, or third-party payor should not forbid or restrict the
25 use of controlled substances appropriately administered for the

1 treatment of pain.

2 Sec. 1197. Section 71-2419, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-2419 A physician licensed under the ~~Uniform Licensing~~
5 ~~Law~~ Medicine and Surgery Practice Act who prescribes, dispenses,
6 or administers or a nurse licensed under the Nurse Practice Act
7 or pharmacist licensed under the ~~Uniform Licensing Law~~ Pharmacy
8 Practice Act who administers or dispenses a controlled substance
9 in excess of the recommended dosage for the treatment of pain
10 shall not be subject to discipline under ~~sections 71-147 to~~
11 ~~71-161.20 or 71-1,142 to 71-1,151 or under the Nurse Practice~~
12 ~~the Uniform Credentialing Act~~ or criminal prosecution under the
13 Uniform Controlled Substances Act when: (1) In the judgment of
14 the physician, appropriate pain management warrants such dosage;
15 (2) the controlled substance is not administered for the purpose
16 of causing, or the purpose of assisting in causing, death for
17 any reason; and (3) the administration of the controlled substance
18 conforms to policies and guidelines for the treatment of pain
19 adopted by the Board of ~~Examiners in~~ Medicine and Surgery.

20 Sec. 1198. Section 71-2420, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-2420 The Board of ~~Examiners in~~ Medicine and Surgery
23 shall adopt policies and guidelines for the treatment of pain
24 to ensure that physicians who are engaged in the appropriate
25 treatment of pain are not subject to disciplinary action, and the

1 board shall consider policies and guidelines developed by national
2 organizations with expertise in pain management for this purpose.

3 Sec. 1199. Section 71-2421, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-2421 (1) To protect the public safety, dispensed drugs
6 or devices may be returned to the dispensing pharmacy only under
7 the following conditions:

8 (a) For immediate destruction by a pharmacist, except
9 that drugs and devices dispensed to residents of a long-term care
10 facility shall be destroyed on the site of the long-term care
11 facility;

12 (b) In response to a recall by the manufacturer,
13 packager, or distributor;

14 (c) If a device is defective or malfunctioning; or

15 (d) Return from a long-term care facility for credit,
16 except that:

17 (i) No controlled substance may be returned;

18 (ii) The decision to accept the return of the dispensed
19 drug or device shall rest solely with the pharmacist;

20 (iii) The dispensed drug or device shall have been in the
21 control of the long-term care facility at all times;

22 (iv) The dispensed drug or device shall be in the
23 original and unopened labeled container with a tamper-evident seal
24 intact, as dispensed by the pharmacy. Such container shall bear the
25 expiration date or calculated expiration date and lot number; and

1 (v) Tablets or capsules shall have been dispensed in a
2 unit dose with a tamper-evident container which is impermeable to
3 moisture and approved by the Board of Pharmacy.

4 (2) Returned dispensed drugs or devices shall not be
5 retained in inventory nor made available for subsequent dispensing,
6 except as provided in subdivision (1)(d) of this section.

7 (3) For purposes of this section:

8 (a) Calculated expiration date means an expiration date
9 on the prepackaged product which is not greater than twenty-five
10 percent of the time between the date of repackaging and the
11 expiration date of the bulk container nor greater than six months
12 from the date of repackaging; and

13 (b) Dispense, drugs, and devices are defined in ~~section~~
14 71-1,142. the Pharmacy Practice Act.

15 Sec. 1200. Section 71-2423, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 71-2423 For purposes of the Cancer Drug Repository
18 Program Act:

19 (1) Cancer drug means a prescription drug used to treat
20 (a) cancer or its side effects or (b) the side effects of a
21 prescription drug used to treat cancer or its side effects;

22 (2) Department means the Department of Health and Human
23 Services Regulation and Licensure;

24 (3) Health care facility has the definition found in
25 section 71-413;

1 (4) Health clinic has the definition found in section
2 71-416;

3 (5) Hospital has the definition found in section 71-419;

4 (6) Participant means a physician's office, pharmacy,
5 hospital, or health clinic that has elected to voluntarily
6 participate in the program and that accepts donated cancer drugs
7 under the rules and regulations adopted and promulgated by the
8 department for the program;

9 (7) Pharmacy has the definition found in section 71-425;

10 (8) Physician's office means the office of a person
11 licensed to practice medicine and surgery or osteopathic medicine
12 and surgery;

13 (9) Prescribing practitioner means a health care
14 practitioner licensed under the Uniform Licensing Law Credentialing
15 Act who is authorized to prescribe cancer drugs;

16 (10) Prescription drug has the definition found in
17 section ~~71-1,142~~, 937 of this act; and

18 (11) Program means the cancer drug repository program
19 established pursuant to section 71-2424.

20 Sec. 1201. Section 71-2431, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-2431 (1) Prescription drugs or devices which have been
23 delivered to a community health center for dispensing to a patient
24 of such health center pursuant to a valid prescription, but which
25 are not dispensed or administered to such patient, may be delivered

1 to a pharmacist or pharmacy under contract with the community
2 health center for relabeling and redispensing to another patient of
3 such health center pursuant to a valid prescription, ~~except that:~~
4 if:

5 (a) The decision to accept delivery of the drug or
6 device for relabeling and redispensing shall rest solely with the
7 contracting pharmacist or pharmacy;

8 (b) The drug or device shall have been in the control of
9 the community health center at all times;

10 (c) The drug or device shall be in the original and
11 unopened labeled container with a tamper-evident seal intact. Such
12 container shall bear the expiration date or calculated expiration
13 date and lot number; and

14 (d) The relabeling and redispensing is not otherwise
15 prohibited by law.

16 (2) For purposes of this section:

17 (a) Administer has the definition found in section
18 ~~71-1,142,~~ 902 of this act;

19 (b) Calculated expiration date has the definition found
20 in section ~~71-1,147.53,~~ 980 of this act;

21 (c) Community health center means a community health
22 center established pursuant to the Health Centers Consolidation Act
23 of 1996, 42 U.S.C. 201 et seq., as such act existed on May 7, 2005;

24 (d) Deliver or delivery has the definition found in
25 section ~~71-1,142,~~ 909 of this act;

1 (e) Dispense or dispensing has the definition found in
2 section ~~71-1,142,~~ 913 of this act;

3 (f) Prescription has the definition found in section
4 ~~71-1,142,~~ 936 of this act; and

5 (g) Prescription drug or device has the definition found
6 in section ~~71-1,142,~~ 937 of this act.

7 (3) The Department of Health and Human Services
8 Regulation and Licensure, in consultation with the Board of
9 Pharmacy, may adopt and promulgate rules and regulations to carry
10 out this section.

11 Sec. 1202. Section 71-2437, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-2437 For purposes of the Immunosuppressant Drug
14 Repository Program Act:

15 (1) Department means the Department of Health and Human
16 Services Regulation and Licensure;

17 (2) Immunosuppressant drug means anti-rejection drugs
18 that are used to reduce the body's immune system response to
19 foreign material and inhibit a transplant recipient's immune system
20 from rejecting a transplanted organ. Immunosuppressant drugs are
21 available only as prescription drugs and come in tablet, capsule,
22 and liquid forms. The recommended dosage depends on the type
23 and form of immunosuppressant drug and the purpose for which
24 it is being used. Immunosuppressant drug does not include drugs
25 prescribed for inpatient use;

1 (3) Participant means a transplant center that has
2 elected to voluntarily participate in the program, that has
3 submitted written notification to the department of its intent
4 to participate in the program, and that accepts donated
5 immunosuppressant drugs under the rules and regulations adopted and
6 promulgated by the department for the program;

7 (4) Prescribing practitioner means a health care
8 practitioner licensed under the Uniform ~~Licensing Law~~ Credentialing
9 Act who is authorized to prescribe immunosuppressant drugs;

10 (5) Prescription drug has the definition found in section
11 ~~71-1,142,~~ 937 of this act;

12 (6) Program means the immunosuppressant drug repository
13 program established pursuant to section 71-2438;

14 (7) Transplant center means a hospital that operates
15 an organ transplant program, including qualifying patients for
16 transplant, registering patients on the national waiting list,
17 performing transplant surgery, and providing care before and after
18 transplant; and

19 (8) Transplant program means the organ-specific facility
20 within a transplant center. A transplant center may have transplant
21 programs for the transplantation of hearts, lungs, livers, kidneys,
22 pancreata, or intestines.

23 Sec. 1203. Section 71-2505, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-2505 The provisions of sections 71-2503 and 71-2504

1 shall not apply to the dispensing of poisons or preparation of
2 medicines by those practitioners ~~of the healing arts named in~~
3 ~~section 71-102,~~ credentialed under the Uniform Credentialing Act
4 who are duly authorized by law to administer or professionally use
5 those poisons specifically named in section 71-2501.

6 Sec. 1204. Section 71-2509, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-2509 The Director of Regulation and Licensure may, by
9 regulation, whenever in his or her opinion such action becomes
10 necessary for the protection of the public, prohibit the sale of
11 any poison, subject to the provisions of this section, except upon
12 the original written order or prescription of those practitioners
13 ~~of the healing arts, named in section 71-102,~~ credentialed under
14 the Uniform Credentialing Act who are duly authorized by law to
15 administer or professionally use those poisons specifically named
16 in section 71-2501. Whenever in the opinion of the director it is
17 in the interest of the public health, he or she is empowered to
18 adopt rules and regulations, not inconsistent with ~~the provisions~~
19 ~~of~~ sections 71-2501 to 71-2511, further restricting or prohibiting
20 the retail sale of any poison. The rules and regulations must
21 be applicable to all persons alike, and it shall be the duty of
22 the director, upon request, to furnish any person, authorized by
23 sections 71-2501 to 71-2511 to sell or dispense any poisons, with a
24 list of all articles, preparations, and compounds the sale of which
25 is prohibited or regulated by ~~said~~ such sections.

1 Sec. 1205. Section 71-2510, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-2510 The provisions of sections 71-2502 to 71-2511
4 shall not apply to sales of poisons made to those practitioners
5 ~~of the healing arts, named in section 71-102,~~ credentialed under
6 the Uniform Credentialing Act who are duly authorized by law to
7 administer or professionally use those poisons specifically named
8 in section 71-2501, to sales made by any manufacturer, wholesale
9 dealer, or licensed pharmacist to another manufacturer, wholesale
10 dealer, or licensed pharmacist, to a hospital, college, school,
11 or scientific or public institution, or to any person using any
12 of such poisons in the arts or for industrial, manufacturing, or
13 agricultural purposes and believed to be purchasing any poison for
14 legitimate use, or to the sales of pesticides used in agricultural
15 and industrial arts or products used for the control of insect
16 or animal pests or weeds or fungus diseases, if in all such
17 cases, except sales for use in industrial arts, manufacturing,
18 or processing, the poisons are labeled in accordance with the
19 provisions of section 71-2502.

20 Sec. 1206. Section 71-2610.01, Revised Statutes
21 Cumulative Supplement, 2006, is amended to read:

22 71-2610.01 The State Board of Health shall:

23 (1) Adopt and promulgate rules and regulations for the
24 government of the professions and occupations licensed, certified,
25 registered, or issued permits by the Department of Health and Human

1 Services Regulation and Licensure, including rules and regulations
 2 necessary to implement laws enforced by the department. These
 3 professions and occupations are those subject to the ~~Advanced~~
 4 ~~Practice Registered Nurse Licensure Act~~, the Asbestos Control Act,
 5 the ~~Certified Registered Nurse Anesthetist Act~~, the ~~Clinical Nurse~~
 6 ~~Specialist Practice Act~~, the ~~Licensed Practical Nurse-Certified~~
 7 ~~Act~~, the ~~Nebraska Certified Nurse Midwifery Practice Act~~, the
 8 ~~Nebraska Cosmetology Act~~, the ~~Nurse Practice Act~~, the ~~Nurse~~
 9 ~~Practitioner Act~~, the ~~Occupational Therapy Practice Act~~, the
 10 Radiation Control Act, the Residential Lead-Based Paint Professions
 11 ~~Certification Practice Act~~, the Uniform Controlled Substances Act,
 12 the Uniform Licensing Law, Credentialing Act, or the Wholesale
 13 Drug Distributor Licensing Act; ~~or sections 71-102, 71-3702 to~~
 14 ~~71-3715, 71-4701 to 71-4719, and 71-6053 to 71-6068;~~

15 (2) Serve in an advisory capacity for other rules and
 16 regulations adopted and promulgated by the department, including
 17 those for health care facilities and environmental health services;

18 (3) Carry out its powers and duties under the Nebraska
 19 Regulation of Health Professions Act;

20 (4) Appoint and remove for cause members of
 21 health-related professional boards as provided in sections
 22 ~~71-111, 71-112, and 71-118;~~ 58 to 67 of this act;

23 (5) At the discretion of the board, help mediate issues
 24 related to the regulation of health care professions except issues
 25 related to the discipline of health care professionals; and

1 (6) Have the authority to participate in the periodic
2 review of the regulation of health care professions.

3 All funds rendered available by law may be used by the
4 board in administering and effecting such purposes.

5 Sec. 1207. Section 71-3501, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-3501 It is the policy of the State of Nebraska in
8 furtherance of its responsibility to protect occupational and
9 public health and safety and the environment:

10 (1) To institute and maintain a regulatory program for
11 sources of radiation so as to provide for:

12 (a) Compatibility and equivalency with the standards and
13 regulatory programs of the federal government;

14 (b) A single effective system of regulation within the
15 state; and

16 (c) A system consonant insofar as possible with those of
17 other states;

18 (2) To institute and maintain a program to permit
19 development and utilization of sources of radiation for peaceful
20 purposes consistent with the protection of occupational and public
21 health and safety and the environment;

22 ~~(3) To maximize the protection practicable for the~~
23 ~~citizens of Nebraska from ionizing radiation by establishing~~
24 ~~requirements for appropriate qualifications of persons practicing~~
25 ~~medical radiography;~~

1 ~~(4)~~ (3) To provide for the availability of capacity
2 either within or outside the state for the management of
3 low-level radioactive waste generated within the state, except for
4 waste generated as a result of defense or federal research and
5 development activities, and to recognize that such radioactive
6 waste can be most safely and efficiently managed on a regional
7 basis; and

8 ~~(5)~~ (4) To maximize the protection practicable for
9 the citizens of Nebraska from radon or its decay products by
10 establishing requirements for (a) appropriate qualifications for
11 persons providing measurement and mitigation services of radon or
12 its decay products and (b) radon mitigation system installations.

13 Sec. 1208. Section 71-3502, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-3502 It is the purpose of the Radiation Control Act to
16 effectuate the policies set forth in section 71-3501 by providing
17 for:

18 (1) A program of effective regulation of sources of
19 radiation for the protection of occupational and public health and
20 safety and the environment;

21 (2) A program to promote an orderly regulatory pattern
22 within the state, among the states, and between the federal
23 government and the state and facilitate intergovernmental
24 cooperation with respect to use and regulation of sources of
25 radiation to the end that duplication of regulation may be

1 minimized;

2 (3) A program to establish procedures for assumption and
3 performance of certain regulatory responsibilities with respect to
4 sources of radiation; and

5 (4) A program to permit maximum utilization of sources of
6 radiation consistent with the health and safety of the public. +
7 and

8 ~~(5) A program which establishes requirements and~~
9 ~~standards for appropriate education, training, and testing of~~
10 ~~persons practicing medical radiography.~~

11 Sec. 1209. Section 71-3503, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-3503 For purposes of the Radiation Control Act, unless
14 the context otherwise requires:

15 (1) Radiation means ionizing radiation and nonionizing
16 radiation as follows:

17 (a) Ionizing radiation means gamma rays, X-rays, alpha
18 and beta particles, high-speed electrons, neutrons, protons, and
19 other atomic or nuclear particles or rays but does not include
20 sound or radio waves or visible, infrared, or ultraviolet light;
21 and

22 (b) Nonionizing radiation means (i) any electromagnetic
23 radiation which can be generated during the operations of
24 electronic products to such energy density levels as to present
25 a biological hazard to occupational and public health and safety

1 and the environment, other than ionizing electromagnetic radiation,
2 and (ii) any sonic, ultrasonic, or infrasonic waves which are
3 emitted from an electronic product as a result of the operation of
4 an electronic circuit in such product and to such energy density
5 levels as to present a biological hazard to occupational and public
6 health and safety and the environment;

7 (2) Radioactive material means any material, whether
8 solid, liquid, or gas, which emits ionizing radiation
9 spontaneously. Radioactive material includes, but is not
10 limited to, accelerator-produced material, byproduct material,
11 naturally occurring material, source material, and special nuclear
12 material;

13 (3) Radiation-generating equipment means any manufactured
14 product or device, component part of such a product or device,
15 or machine or system which during operation can generate or emit
16 radiation except devices which emit radiation only from radioactive
17 material;

18 (4) Sources of radiation means any radioactive material,
19 any radiation-generating equipment, or any device or equipment
20 emitting or capable of emitting radiation or radioactive material;

21 (5) Undesirable radiation means radiation in such
22 quantity and under such circumstances as determined from time
23 to time by rules and regulations adopted and promulgated by the
24 department;

25 (6) Person means any individual, corporation,

1 partnership, limited liability company, firm, association,
2 trust, estate, public or private institution, group, agency,
3 political subdivision of this state, any other state or
4 political subdivision or agency thereof, and any legal successor,
5 representative, agent, or agency of the foregoing;

6 (7) Registration means registration with the department
7 pursuant to the Radiation Control Act;

8 (8) Department means the Department of Health and Human
9 Services Regulation and Licensure;

10 (9) Coordinator means the Director of Regulation and
11 Licensure;

12 (10) Electronic product means any manufactured product,
13 device, assembly, or assemblies of such products or devices which,
14 during operation in an electronic circuit, can generate or emit a
15 physical field of radiation;

16 (11) License means:

17 (a) A general license issued pursuant to rules and
18 regulations adopted and promulgated by the department without the
19 filing of an application with the department or the issuance of
20 licensing documents to particular persons to transfer, acquire,
21 own, possess, or use quantities of or devices or equipment
22 utilizing radioactive materials;

23 (b) A specific license, issued to a named person upon
24 application filed with the department pursuant to the Radiation
25 Control Act and rules and regulations adopted and promulgated

1 pursuant to the act, to use, manufacture, produce, transfer,
2 receive, acquire, own, or possess quantities of or devices or
3 equipment utilizing radioactive materials; or

4 (c) A license issued to a radon measurement specialist,
5 radon measurement technician, radon mitigation specialist, radon
6 mitigation technician, radon measurement business, or radon
7 mitigation business; ~~or~~

8 ~~(d) A license issued to a medical radiographer or limited~~
9 ~~radiographer;~~

10 (12) Byproduct material means:

11 (a) Any radioactive material, except special nuclear
12 material, yielded in or made radioactive by exposure to the
13 radiation incident to the process of producing or utilizing special
14 nuclear material; and

15 (b) The tailings or wastes produced by the extraction
16 or concentration of uranium or thorium from any ore processed
17 primarily for its source material content, including discrete
18 surface wastes resulting from uranium or thorium solution
19 extraction processes. Underground ore bodies depleted by such
20 solution extraction operations do not constitute byproduct
21 material;

22 (13) Source material means:

23 (a) Uranium or thorium or any combination thereof in any
24 physical or chemical form; or

25 (b) Ores which contain by weight one-twentieth of one

1 percent or more of uranium, thorium, or any combination thereof.

2 Source material does not include special nuclear material;

3 (14) Special nuclear material means:

4 (a) Plutonium, uranium 233, or uranium enriched in the
5 isotope 233 or in the isotope 235 and any other material that
6 the United States Nuclear Regulatory Commission pursuant to the
7 provisions of section 51 of the federal Atomic Energy Act of 1954,
8 as amended, determines to be special nuclear material but does not
9 include source material; or

10 (b) Any material artificially enriched by any material
11 listed in subdivision (14)(a) of this section but does not include
12 source material;

13 (15) Users of sources of radiation means:

14 (a) Physicians using radioactive material or
15 radiation-generating equipment for human use;

16 (b) Natural persons using radioactive material or
17 radiation-generating equipment for education, research, or
18 development purposes;

19 (c) Natural persons using radioactive material or
20 radiation-generating equipment for manufacture or distribution
21 purposes;

22 (d) Natural persons using radioactive material or
23 radiation-generating equipment for industrial purposes; and

24 (e) Natural persons using radioactive material or
25 radiation-generating equipment for any other similar purpose;

1 (16) Civil penalty means any monetary penalty levied on
2 a licensee or registrant because of violations of statutes, rules,
3 regulations, licenses, or registration certificates but does not
4 include criminal penalties;

5 (17) Closure means all activities performed at a waste
6 handling, processing, management, or disposal site, such as
7 stabilization and contouring, to assure that the site is in a
8 stable condition so that only minor custodial care, surveillance,
9 and monitoring are necessary at the site following termination of
10 licensed operation;

11 (18) Decommissioning means final operational activities
12 at a facility to dismantle site structures, to decontaminate
13 site surfaces and remaining structures, to stabilize and contain
14 residual radioactive material, and to carry out any other
15 activities to prepare the site for postoperational care;

16 (19) Disposal means the permanent isolation of low-level
17 radioactive waste pursuant to the Radiation Control Act and rules
18 and regulations adopted and promulgated pursuant to such act;

19 (20) Generate means to produce low-level radioactive
20 waste when used in relation to low-level radioactive waste;

21 (21) High-level radioactive waste means:

22 (a) Irradiated reactor fuel;

23 (b) Liquid wastes resulting from the operation of the
24 first cycle solvent extraction system or equivalent and the
25 concentrated wastes from subsequent extraction cycles or the

1 equivalent in a facility for reprocessing irradiated reactor fuel;
2 and

3 (c) Solids into which such liquid wastes have been
4 converted;

5 (22) Low-level radioactive waste means radioactive waste
6 not defined as high-level radioactive waste, spent nuclear fuel,
7 or byproduct material as defined in subdivision (12)(b) of this
8 section;

9 (23) Management of low-level radioactive waste means the
10 handling, processing, storage, reduction in volume, disposal, or
11 isolation of such waste from the biosphere in any manner;

12 (24) Source material mill tailings or mill tailings means
13 the tailings or wastes produced by the extraction or concentration
14 of uranium or thorium from any ore processed primarily for
15 its source material content, including discrete surface wastes
16 resulting from underground solution extraction processes, but
17 not including underground ore bodies depleted by such solution
18 extraction processes;

19 (25) Source material milling means any processing of ore,
20 including underground solution extraction of unmined ore, primarily
21 for the purpose of extracting or concentrating uranium or thorium
22 therefrom and which results in the production of source material
23 and source material mill tailings;

24 (26) Spent nuclear fuel means irradiated nuclear fuel
25 that has undergone at least one year of decay since being used as

1 a source of energy in a power reactor. Spent nuclear fuel includes
2 the special nuclear material, byproduct material, source material,
3 and other radioactive material associated with fuel assemblies;

4 (27) Transuranic waste means radioactive waste material
5 containing alpha-emitting radioactive elements, with radioactive
6 half-lives greater than five years, having an atomic number greater
7 than 92 in concentrations in excess of one hundred nanocuries per
8 gram;

9 (28) Licensed practitioner means a person licensed to
10 practice medicine, dentistry, podiatry, chiropractic, osteopathic
11 medicine and surgery, or as an osteopathic physician;

12 (29) X-ray system means an assemblage of components for
13 the controlled production of X-rays, including, but not limited to,
14 an X-ray high-voltage generator, an X-ray control, a tube housing
15 assembly, a beam-limiting device, and the necessary supporting
16 structures. Additional components which function with the system
17 are considered integral parts of the system;

18 ~~(30) Limited radiographer means a person licensed~~
19 ~~to practice medical radiography pursuant to subsection (2) of~~
20 ~~section 71-3515.01. Limited radiographer does not include a person~~
21 ~~certified under section 71-176.01;~~

22 ~~(31) Medical radiographer means a person licensed to~~
23 ~~practice medical radiography pursuant to subsection (1) of section~~
24 ~~71-3515.01;~~

25 ~~(32) Medical radiography means the application of~~

1 radiation to humans for diagnostic purposes, including, but not
2 limited to, adjustment or manipulation of X-ray systems and
3 accessories including image receptors, positioning of patients,
4 processing of films, and any other action that materially affects
5 the radiation dose to patients,

6 ~~(33)~~ (30) Licensed facility operator means any person or
7 entity who has obtained a license under the Low-Level Radioactive
8 Waste Disposal Act to operate a facility, including any person
9 or entity to whom an assignment of a license is approved by the
10 Department of Environmental Quality; and

11 ~~(34)~~ (31) Deliberate misconduct means an intentional act
12 or omission by a person that (a) would intentionally cause a
13 licensee, registrant, or applicant for a license or registration to
14 be in violation of any rule, regulation, or order of or any term,
15 condition, or limitation of any license or registration issued by
16 the department under the Radiation Control Act or (b) constitutes
17 an intentional violation of a requirement, procedure, instruction,
18 contract, purchase order, or policy under the Radiation Control
19 Act by a licensee, a registrant, an applicant for a license or
20 registration, or a contractor or subcontractor of a licensee,
21 registrant, or applicant for a license or registration.

22 Sec. 1210. Section 71-3505, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-3505 Matters relative to radiation as they relate to
25 occupational and public health and safety and the environment shall

1 be a responsibility of the department. The department shall:

2 (1) Develop comprehensive policies and programs for the
3 evaluation and determination of undesirable radiation associated
4 with the production, use, storage, or disposal of radiation sources
5 and formulate, adopt, promulgate, and repeal rules and regulations
6 which may provide (a) for registration or licensure under section
7 71-3507 or 71-3509 and (b) for registration or licensure of (i)
8 any other source of radiation, (ii) persons providing services
9 for collection, detection, measurement, or monitoring of sources
10 of radiation, including, but not limited to, radon and its decay
11 products, (iii) persons providing services to reduce the effects of
12 sources of radiation, ~~(iv) persons practicing medical radiography,~~
13 ~~and (v) and (iv) persons practicing industrial radiography,~~ as
14 specified by rule or regulation so as to reasonably protect
15 occupational and public health and safety and the environment
16 in a manner compatible with regulatory programs of the federal
17 government. The department for identical purposes may also adopt
18 and promulgate rules and regulations for the issuance of licenses,
19 either general or specific, to persons for the purpose of using,
20 manufacturing, producing, transporting, transferring, receiving,
21 acquiring, owning, or possessing any radioactive material. Such
22 rules and regulations may prohibit the use of radiation for
23 uses found by the department to be detrimental to occupational
24 and public health or safety or the environment and shall carry
25 out the purposes and policies set out in sections 71-3501

1 and 71-3502. Such rules and regulations shall not prohibit
2 or limit the kind or amount of radiation purposely prescribed
3 for or administered to a patient by doctors of medicine and
4 surgery, dentistry, osteopathic medicine, chiropractic, podiatry,
5 and veterinary medicine, while engaged in the lawful practice of
6 such profession, or administered by other professional personnel,
7 such as allied health personnel, medical radiographers, limited
8 radiographers, nurses, and laboratory workers, acting under the
9 supervision of a licensed practitioner. Violation of rules and
10 regulations adopted and promulgated by the department pursuant to
11 the Radiation Control Act shall be due cause for the suspension,
12 revocation, or limitation of a license issued by the department.
13 Any licensee may request a hearing before the department on the
14 issue of such suspension, revocation, or limitation. Procedures for
15 notice and opportunity for a hearing before the department shall be
16 pursuant to the Administrative Procedure Act. The decision of the
17 department may be appealed, and the appeal shall be in accordance
18 with the Administrative Procedure Act;

19 (2) Have the authority to accept and administer loans,
20 grants, or other funds or gifts, conditional or otherwise, in
21 furtherance of its functions, from the federal government and from
22 other sources, public or private;

23 (3) Encourage, participate in, or conduct studies,
24 investigations, training, research, and demonstrations relating to
25 the control of sources of radiation;

1 (4) Collect and disseminate health education information
2 relating to radiation protection;

3 (5) Make its facilities available so that any person or
4 any agency may request the department to review and comment on
5 plans and specifications of installations submitted by the person
6 or agency with respect to matters of protection and safety for the
7 control of undesirable radiation;

8 (6) Be empowered to inspect radiation sources and their
9 shieldings and surroundings for the determination of any possible
10 undesirable radiation or violations of rules and regulations
11 adopted and promulgated by the department and provide the owner,
12 user, or operator with a report of any known or suspected
13 deficiencies; and

14 (7) Collect a fee for emergency response or environmental
15 surveillance, or both, offsite from each nuclear power plant equal
16 to the cost of completing the emergency response or environmental
17 surveillance and any associated report. In no event shall the
18 fee for any nuclear power plant exceed the lesser of the
19 actual costs of such activities or fifty-three thousand dollars
20 per annum. Commencing July 1, 1997, the accounting division
21 of the Department of Administrative Services shall recommend an
22 inflationary adjustment equivalent which shall be based upon the
23 Consumer Price Index for All Urban Consumers of the United States
24 Department of Labor, Bureau of Labor Statistics, and shall not
25 exceed five percent per annum. Such adjustment shall be applied to

1 the annual fee for nuclear power plants. The fee collected shall be
2 credited to the Department of Health and Human Services Regulation
3 and Licensure Cash Fund. This fee shall be used solely for the
4 purpose of defraying the direct costs of the emergency response
5 and environmental surveillance at Cooper Nuclear Station and Fort
6 Calhoun Station conducted by the department. The department may
7 charge additional fees when mutually agreed upon for services,
8 training, or equipment that are a part of or in addition to matters
9 in this section.

10 Sec. 1211. Section 71-3507, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-3507 (1) The department shall adopt and promulgate
13 rules and regulations for the issuance, amendment, suspension,
14 and revocation of general and specific licenses. Such licenses
15 shall be for byproduct material, source material, special nuclear
16 material, and radioactive material not under the authority of the
17 federal Nuclear Regulatory Commission and for devices or equipment
18 utilizing such materials. The rules and regulations shall provide:

19 (a) For written applications for a specific license
20 which include the technical, financial, and other qualifications
21 determined by the department to be reasonable and necessary
22 to protect occupational and public health and safety and the
23 environment;

24 (b) For additional written statements and inspections, as
25 required by the department, at any time after filing an application

1 for a specific license and before the expiration of the license to
2 determine whether the license should be issued, amended, suspended,
3 or revoked;

4 (c) That all applications and statements be signed by the
5 applicant or licensee;

6 (d) The form, terms, and conditions of general and
7 specific licenses;

8 (e) That no license or right to possess or utilize
9 sources of radiation granted by a license shall be assigned or
10 in any manner disposed of without the written consent of the
11 department; and

12 (f) That the terms and conditions of all licenses are
13 subject to amendment by rules, regulations, or orders issued by the
14 department.

15 (2) The department may require registration or licensing
16 of radioactive material not enumerated in subsection (1) of this
17 section in order to maintain compatibility and equivalency with
18 the standards and regulatory programs of the federal government or
19 to protect the occupational and public health and safety and the
20 environment.

21 ~~(3)~~ (3) (a) The department shall require licensure of
22 persons providing measurement and mitigation services of radon or
23 its decay products in order to protect the occupational and public
24 health and safety and the environment.

25 (b) The department shall adopt and promulgate rules

1 and regulations establishing education, experience, training,
2 examination, and continuing competency requirements for radon
3 measurement specialists, radon measurement technicians, radon
4 mitigation specialists, and radon mitigation technicians.
5 Application for such licenses shall be made as provided in the
6 Uniform Credentialing Act. Such persons shall be credentialed in
7 the same manner as an individual under subsection (1) of section 21
8 of this act and shall be subject to disciplinary action pursuant to
9 section 71-3517. Continuing competency requirements may include,
10 but not be limited to, one or more of the continuing competency
11 activities listed in section ~~71-161.09.~~ 45 of this act.

12 (c) The department shall adopt and promulgate rules and
13 regulations establishing staffing, proficiency, quality control,
14 reporting, worker health and safety, equipment, and record-keeping
15 requirements for radon measurement businesses and radon mitigation
16 businesses and mitigation system installation requirements for
17 radon mitigation businesses.

18 ~~(4)~~ The department shall license persons practicing
19 medical radiography, including medical radiographers and limited
20 radiographers, in order to protect the occupational and public
21 health and safety and the environment. The licenses shall
22 be renewed biennially. For medical radiographers and limited
23 radiographers, the department shall adopt and promulgate rules and
24 regulations establishing examination requirements for licensure,
25 continuing competency requirements for renewal of a license, and

1 approval requirements for examinations. Continuing education is
2 sufficient to meet continuing competency requirements. Continuing
3 competency requirements may also include, but not be limited
4 to, one or more of the continuing competency activities listed
5 in section 71-161.09 which a licensed person may select as an
6 alternative to continuing education. For medical radiographers,
7 the department shall adopt and promulgate rules and regulations
8 establishing requirements for education and training and for
9 approval of courses of training. Persons authorized under sections
10 71-193.15 and 71-193.17 to practice as dental hygienists and dental
11 assistants who meet the requirements of section 71-193.13 shall not
12 be required to be licensed under this section.

13 ~~(5)~~ (4) The department may exempt certain sources of
14 radiation or kinds of uses or users from licensing or registration
15 requirements established under the Radiation Control Act when
16 the department finds that the exemption will not constitute a
17 significant risk to occupational and public health and safety and
18 the environment.

19 ~~(6)~~ (5) The department may provide by rule and regulation
20 for the recognition of other state or federal licenses compatible
21 and equivalent with the standards established by the department for
22 Nebraska licensees.

23 ~~(7)~~ (6) The department may accept accreditation for an
24 industrial radiographer by a recognized independent accreditation
25 body, a public agency, or the federal Nuclear Regulatory

1 Commission, which has standards that are at least as stringent as
2 those of the State of Nebraska, as evidence that the industrial
3 radiographer complies with the rules and regulations adopted and
4 promulgated pursuant to the act. The department may adopt and
5 promulgate rules and regulations which list accreditation bodies,
6 public agencies, and federal programs that meet this standard.

7 ~~(8)~~ (7) The department may enter at all reasonable times
8 upon any private or public property for the purpose of determining
9 whether or not there is compliance with the act and rules and
10 regulations adopted and promulgated pursuant to the act, except
11 that entry into areas under the jurisdiction of the federal
12 government shall be effected only with the concurrence of the
13 federal government or its duly designated representative.

14 ~~(9)~~ (8) The department shall cause to be registered
15 with the department such sources of radiation as the department
16 determines to be reasonably necessary to protect occupational and
17 public health and safety and the environment as follows:

18 (a) The department shall, by public notice, establish a
19 date on or before which date such sources of radiation shall be
20 registered with the department, and the department shall provide
21 appropriate forms for such registration. Each application for
22 registration shall be in writing and shall state such information
23 as the department by rules or regulations may determine to be
24 necessary and reasonable to protect occupational and public health
25 and safety and the environment;

1 (b) Registration of sources of radiation shall be
2 an initial registration with appropriate notification to the
3 department in the case of alteration of equipment, acquisition of
4 new sources of radiation, or the transfer, loss, or destruction of
5 sources of radiation and shall include the registration of persons
6 installing or servicing sources of radiation;

7 (c) Failure to register or reregister sources of
8 radiation in accordance with rules and regulations adopted and
9 promulgated by the department shall be subject to a fine of not
10 less than fifty dollars nor more than two hundred dollars; and

11 (d) The department may provide by rule and regulation for
12 reregistration of sources of radiation.

13 ~~(10)~~ (9) The results of any surveys or inspections of
14 sources of radiation conducted by the department shall be public
15 records subject to sections 84-712 to 84-712.09. In addition, the
16 following information shall be deemed confidential:

17 (a) The names of individuals in dosimetry reports;

18 (b) Emergency response procedures which would present a
19 clear threat to security or disclose names of individuals; and

20 (c) Any other information that is likely to present
21 a clear threat to the security of radioactive material. The
22 department shall make such reports of results of surveys or
23 inspections available to the owner or operator of the source
24 of radiation together with any recommendations of the department
25 regarding deficiencies noted.

1 ~~(11)~~ (10) The department shall have the right to survey
2 or inspect again any source of radiation previously surveyed
3 without limitation of the number of surveys or inspections
4 conducted on a given source of radiation.

5 ~~(12)~~ (11) The department may enter into contracts with
6 persons or corporations to perform the inspection of X-ray
7 radiation-generating equipment or devices which emit radiation
8 from radioactive materials and to aid the department in the
9 administration of the act.

10 Sec. 1212. Section 71-3508.03, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 71-3508.03 (1) The department shall establish by rule
13 and regulation annual fees for the radioactive materials licenses,
14 for inspections of radioactive materials, for the registration
15 and inspection of radiation-generating equipment and other sources
16 of radiation, and for radon measurement and mitigation business
17 licenses and inspections of radon mitigation systems installations
18 under the Radiation Control Act. The annual fee for registration
19 and inspection of X-ray radiation generating equipment used to
20 diagnose conditions in humans or animals shall not exceed seventy
21 dollars per X-ray machine. The department shall also establish by
22 rule and regulation additional fees for environmental surveillance
23 activities performed by the department to assess the radiological
24 impact of activities conducted by licensees and registrants. Such
25 activities shall not duplicate surveillance programs approved by

1 the federal Nuclear Regulatory Commission and conducted by entities
2 licensed by such commission. No fee shall exceed the actual cost to
3 the department for administering the act. The fees collected shall
4 be remitted to the State Treasurer for credit to the Department
5 of Health and Human Services Regulation and Licensure Cash Fund
6 and shall be used solely for the purpose of defraying the direct
7 and indirect costs of administering the act. The department shall
8 collect such fees.

9 (2) The department may, upon application by an interested
10 person or on its own initiative, grant such exemptions from
11 the requirements of this section as it determines are in the
12 public interest. Applications for exemption under this subsection
13 may include, but shall not be limited to, the use of licensed
14 materials for educational or noncommercial displays or scientific
15 collections.

16 (3) When a registrant or licensee fails to pay
17 the applicable fee, the department may suspend or revoke the
18 registration or license or may issue an appropriate order.

19 (4) The department shall establish and collect fees for
20 licenses for individuals engaged in radon detection, measurement,
21 and mitigation as provided in ~~section 71-162,~~ sections 51 to 57 of
22 this act.

23 Sec. 1213. Section 71-3515, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-3515 It shall be unlawful for any person to use,

1 manufacture, produce, distribute, sell, transport, transfer,
2 install, repair, receive, acquire, own, or possess any source of
3 radiation unless registered with or licensed by the department
4 as required by the Medical Radiography Practice Act or section
5 71-3505, 71-3507, or 71-3509.

6 Sec. 1214. Section 71-3517, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-3517 (1) Any person who violates any of the provisions
9 of the Radiation Control Act shall be guilty of a Class IV
10 misdemeanor.

11 (2) In addition to the penalty provided in subsection
12 (1) of this section, any person who violates any provision of the
13 Radiation Control Act or any rule, regulation, or order issued
14 pursuant to such act or any term, condition, or limitation of any
15 license or registration certificate issued pursuant to such act
16 shall be subject to:

17 (a) License revocation, suspension, modification,
18 condition, or limitation;

19 (b) The imposition of a civil penalty; or

20 (c) The terms of any appropriate order issued by the
21 department.

22 (3) Whenever the department proposes to subject a person
23 to the provisions of subsection (2) of this section, the department
24 shall notify the person in writing (a) setting forth the date,
25 facts, and nature of each act or omission with which the person

1 is charged, (b) specifically identifying the particular provision
2 or provisions of the section, rule, regulation, order, license, or
3 registration certificate involved in the violation, and (c) of the
4 sanction or order to be imposed. If a civil penalty is imposed, the
5 notice shall include a statement that it can be collected by civil
6 action. The notice shall be delivered to each alleged violator by
7 personal service, by certified or registered mail to his or her
8 last-known address, or by publication. Notice by publication shall
9 only be made if personal service or service by mail cannot be
10 effectuated. The sanction or order in the notice shall become final
11 thirty days after the mailing of the notice unless the applicant,
12 registrant, or licensee, within the thirty-day period, requests, in
13 writing, a hearing before the department. If the notice is served
14 by personal service or publication, the sanction or order shall
15 become final thirty days after completion of such service unless
16 the applicant, registrant, or licensee, within the thirty-day
17 period, requests, in writing, a hearing before the department.

18 (4) Hearings held pursuant to subsection (3) of this
19 section shall be held in accordance with rules and regulations
20 adopted and promulgated by the department and shall provide for
21 the alleged violator to present such evidence as may be proper.
22 Witnesses may be subpoenaed by either party and shall be allowed
23 fees at a rate prescribed by the rules and regulations of the
24 department. A full and complete record shall be kept of the
25 proceedings.

1 (5) Following the hearing, the director shall determine
2 whether the charges are true or not, and if true, the director
3 may (a) issue a declaratory order finding the charges to be true,
4 (b) revoke, suspend, modify, condition, or limit the license, (c)
5 impose a civil penalty in an amount not to exceed ten thousand
6 dollars for each violation, or (d) enter an appropriate order. If
7 any violation is a continuing one, each day of such violation shall
8 constitute a separate violation for the purpose of computing the
9 applicable civil penalty and the amount of the penalty shall be
10 based on the severity of the violation. A copy of such decision
11 setting forth the finding of facts and the particular reasons upon
12 which it is based shall be sent by either certified or registered
13 mail to the alleged violator. The decision may be appealed, and
14 the appeal shall be in accordance with the Administrative Procedure
15 Act.

16 (6) Any civil penalty assessed and unpaid under
17 subsection (5) of this section shall constitute a debt to the
18 State of Nebraska which may be collected in the manner of a lien
19 foreclosure or sued for and recovered in any proper form of action
20 in the name of the State of Nebraska in the district court of
21 the county in which the violator resides or owns property. The
22 department shall, within thirty days from receipt, ~~transmit~~ remit
23 any collected civil penalty to the State Treasurer for ~~deposit in~~
24 ~~the permanent school fund.~~ distribution in accordance with Article
25 VII, section 5, of the Constitution of Nebraska.

1 (7) In addition to the provisions of this section,
2 radon measurement specialists, radon measurement technicians, radon
3 mitigation specialists, and radon mitigation technicians shall
4 be subject to the reporting, investigatory, and disciplinary
5 provisions of sections 76 to 85, 106, 109 to 126, and 137 to
6 139 of this act. In addition to the grounds for disciplinary action
7 found in the Uniform Credentialing Act, a license issued to a
8 specialist or technician may be disciplined for any violation of
9 the Radiation Control Act or the rules and regulations adopted and
10 promulgated under the act.

11 Sec. 1215. (1) All rules and regulations adopted prior to
12 the operative date of this section under the Radiation Control Act
13 shall continue to be effective to the extent not in conflict with
14 the changes made by this legislative bill.

15 (2) All licenses or other forms of approval issued prior
16 to the operative date of this section in accordance with the
17 Radiation Control Act shall remain valid as issued for purposes
18 of the changes made by this legislative bill unless revoked or
19 otherwise terminated by law.

20 (3) Any suit, action, or other proceeding, judicial or
21 administrative, which was lawfully commenced prior to the operative
22 date of this section under the Radiation Control Act shall be
23 subject to the provisions of the act as they existed prior to the
24 operative date of this section.

25 Sec. 1216. Section 71-3519, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 71-3519 Sections 71-3501 to 71-3520 and section 1215 of
3 this act shall be known and may be cited as the Radiation Control
4 Act.

5 Sec. 1217. Section 71-4305, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-4305 (1) The Department of Health and Human Services
8 Regulation and Licensure shall make at least one inspection every
9 year of each swimming pool to determine that such swimming pool
10 complies with the minimum sanitary and safety requirements.

11 (2) The owner and operator of any swimming pool shall
12 submit such operation and analytical records as may be requested
13 at any time by the department to determine the sanitary and safety
14 condition of the swimming pool.

15 (3) The department shall adopt and promulgate rules and
16 regulations which classify swimming pools on the basis of criteria
17 deemed appropriate by the department. The department shall charge
18 engineering firms, swimming pool owners, and other appropriate
19 parties fees established by rules and regulations for the review
20 of plans and specifications of a swimming pool, the issuance of
21 a license or permit, the inspection of a swimming pool, and any
22 other services rendered at a rate which defrays no more than
23 the actual cost of the services provided. All fees shall be paid
24 as a condition of annual renewal of licensure or of continuance
25 of licensure. All fees collected under this subsection shall be

1 remitted to the State Treasurer for credit to the Department of
2 Health and Human Services Regulation and Licensure Cash Fund. The
3 department shall not charge a municipal corporation an inspection
4 fee for an inspection of a swimming pool owned by such municipal
5 corporation.

6 (4) The department shall establish and collect fees for
7 certificates of competency for swimming pool operators as provided
8 in ~~section 71-162~~, sections 51 to 57 of this act.

9 Sec. 1218. Section 71-4807, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-4807 (1) The donee may accept or reject the gift. If
12 the donee accepts a gift of the entire body, he or she may, subject
13 to the terms of the gift, authorize embalming and the use of the
14 body in funeral services. If the gift is of a part of the body,
15 the donee, upon the death of the donor and prior to embalming,
16 shall cause the part to be removed without unnecessary mutilation.
17 After removal of the part, custody of the remainder of the body
18 vests in the surviving spouse, next of kin, or other persons under
19 obligation to dispose of the body.

20 (2) The time of death shall be determined by a physician
21 who attends the donor at his or her death or, if none, the
22 physician who certifies the death. This physician shall not
23 participate in the procedures for removing or transplanting a
24 part, except the enucleation of eyes. An appropriately qualified
25 designee of a physician with training in ophthalmologic techniques

1 or a funeral director and embalmer licensed pursuant to ~~section~~
2 ~~71-1302~~ the Funeral Directing and Embalming Practice Act upon
3 (a) successfully completing a course in eye enucleation and (b)
4 receiving a certificate of competence from the Department of
5 Ophthalmology, College of Medicine of the University of Nebraska,
6 may enucleate the eyes of the donor.

7 (3) A person who acts in good faith in accord with the
8 terms of the Uniform Anatomical Gift Act or under the anatomical
9 gift laws of another state shall not be liable for damages in any
10 civil action or subject to prosecution in any criminal proceeding
11 for his or her act.

12 (4) The Uniform Anatomical Gift Act shall be subject to
13 the laws of this state prescribing powers and duties with respect
14 to autopsies.

15 Sec. 1219. Section 71-4810, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-4810 No physician, surgeon, hospital, blood bank,
18 tissue bank, funeral director and embalmer licensed under ~~section~~
19 ~~71-1302~~, the Funeral Directing and Embalming Practice Act, or
20 other person or entity who donates, obtains, prepares, transplants,
21 injects, transfuses, or otherwise transfers, or who assists or
22 participates in obtaining, preparing, transplanting, injecting,
23 transfusing, or transferring any tissue, organ, blood, or component
24 thereof from one or more human beings, living or dead, to another
25 human being, shall be liable in damages as a result of any such

1 activity, save and except that each such person or entity shall
2 remain liable in damages for his, her, or its own negligence or
3 willful misconduct.

4 Sec. 1220. Section 71-4813, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-4813 When an autopsy is performed by the physician
7 authorized by the county coroner to perform such autopsy, the
8 physician or an appropriately qualified designee with training
9 in ophthalmologic techniques, as provided for in subsection (2)
10 of section 71-4807, may remove eye tissue of the decedent for
11 the purpose of transplantation. The physician may also remove
12 the pituitary gland for the purpose of research and treatment of
13 hypopituitary dwarfism and of other growth disorders. Removal of
14 the eye tissue or the pituitary gland shall only take place if the:

- 15 (1) Autopsy was authorized by the county coroner;
16 (2) County coroner receives permission from the person
17 having control of the disposition of the decedent's remains
18 pursuant to section ~~71-1339~~; 561 of this act; and
19 (3) Removal of eye tissue or of the pituitary gland will
20 not interfere with the course of any subsequent investigation or
21 alter the decedent's post mortem facial appearance.

22 The removed eye tissue or pituitary gland shall be
23 transported to the Director of Regulation and Licensure or any
24 desired institution or health facility as prescribed by section
25 ~~71-1341~~. 563 of this act.

1 Sec. 1221. Section 71-51,102, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 71-51,102 (1) For purposes of this section:

4 (a) Automated external defibrillator means a device that:

5 (i) Is capable of recognizing the presence or absence
6 of ventricular fibrillation or rapid ventricular tachycardia and
7 is capable of determining, without intervention of an operator,
8 whether defibrillation should be performed; and

9 (ii) Automatically charges and requests delivery of an
10 electrical impulse to an individual's heart when it has identified
11 a condition for which defibrillation should be performed;

12 (b) Emergency medical service means an emergency medical
13 service as defined in section ~~71-5175~~, 491 of this act;

14 (c) Health care facility means a health care facility as
15 defined in section 71-413;

16 (d) Health care practitioner facility means a health care
17 practitioner facility as defined in section 71-414; and

18 (e) Health care professional means any person who is
19 licensed, certified, or registered by the Department of Health
20 and Human Services Regulation and Licensure and who is authorized
21 within his or her scope of practice to use an automated external
22 defibrillator.

23 (2) Except for the action or omission of a health
24 care professional acting in such capacity or in a health care
25 facility, no person who delivers emergency care or treatment

1 using an automated external defibrillator shall be liable in any
2 civil action to respond in damages as a result of his or her
3 acts of commission or omission arising out of and in the course
4 of rendering such care or treatment in good faith. Nothing in
5 this subsection shall be construed to (a) grant immunity for
6 any willful, wanton, or grossly negligent acts of commission or
7 omission or (b) limit the immunity provisions for certain health
8 care professionals as provided in section ~~71-5194~~. 516 of this act.

9 (3) A person acquiring an automated external
10 defibrillator shall notify the local emergency medical service
11 of the existence, location, and type of the defibrillator and
12 of any change in the location of such defibrillator unless the
13 defibrillator was acquired for use in a private residence, a health
14 care facility, or a health care practitioner facility.

15 Sec. 1222. Section 71-51,103, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-51,103 There is hereby created the Nebraska Emergency
18 Medical System Operations Fund. The fund may receive gifts,
19 bequests, grants, fees, or other contributions or donations from
20 public or private entities. The fund shall be used to carry out
21 the purposes of the Statewide Trauma System Act and the Emergency
22 Medical Services Practice Act, including activities related to the
23 design, maintenance, or enhancement of the statewide trauma system,
24 support of emergency medical services programs, and support for
25 the emergency medical services programs for children. The Director

1 of Regulation and Licensure shall annually, on or before January
2 1, submit a report to the Legislature which includes a general
3 accounting of the income and expenditures of the fund. Any money in
4 the fund available for investment shall be invested by the state
5 investment officer pursuant to the Nebraska Capital Expansion Act
6 and the Nebraska State Funds Investment Act.

7 Sec. 1223. Section 71-5301, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-5301 For purposes of the Nebraska Safe Drinking Water
10 Act, unless the context otherwise requires:

11 (1) Council means the Advisory Council on Public Water
12 Supply;

13 (2) Director means the Director of Regulation and
14 Licensure or his or her authorized representative;

15 (3) Designated agent means any political subdivision or
16 corporate entity having the demonstrated capability and authority
17 to carry out in whole or in part the Nebraska Safe Drinking
18 Water Act and with which the Director of Regulation and Licensure
19 has consummated a legal and binding contract covering specifically
20 delegated responsibilities;

21 (4) Major construction, extension, or alteration means
22 those structural changes that affect the source of supply,
23 treatment processes, or transmission of water to service areas but
24 does not include the extension of service mains within established
25 service areas;

1 (5) Operator means the individual or individuals
2 responsible for the continued performance of the water supply
3 system or any part of such system during assigned duty hours;

4 (6) Owner means any person owning or operating a public
5 water system;

6 (7) Person means any individual, corporation, firm,
7 partnership, limited liability company, association, company,
8 corporation, trust, estate, public or private institution, group,
9 agency, political subdivision, or other entity or any legal
10 successor, representative, agent, or agency of any of such
11 entities;

12 (8) Water supply system means all sources of water and
13 their surroundings under the control of one owner and includes
14 all structures, conduits, and appurtenances by means of which such
15 water is collected, treated, stored, or delivered except service
16 pipes between street mains and buildings and the plumbing within or
17 in connection with the buildings served;

18 (9) (a) Public water system means a system for providing
19 the public with water for human consumption through pipes or, ~~after~~
20 ~~August 5, 1998,~~ other constructed conveyances, if such system has
21 at least fifteen service connections or regularly serves an average
22 of at least twenty-five individuals daily at least sixty days per
23 year. Public water system includes (i) any collection, treatment,
24 storage, and distribution facilities under control of the operator
25 of such system and used primarily in connection with such system

1 and (ii) any collection or pretreatment storage facilities not
2 under such control which are used primarily in connection with such
3 system. Public water system does not include a special irrigation
4 district. A public water system is either a community water system
5 or a noncommunity water system.

6 (b) Service connection does not include a connection to
7 a system that delivers water by a constructed conveyance other
8 than a pipe if (i) the water is used exclusively for purposes
9 other than residential uses, consisting of drinking, bathing,
10 cooking, and other similar uses, (ii) the department determines
11 that alternative water to achieve the equivalent level of public
12 health protection provided by the Nebraska Safe Drinking Water Act
13 and rules and regulations under the act is provided for residential
14 or similar uses for drinking and cooking, or (iii) the department
15 determines that the water provided for residential or similar uses
16 for drinking, cooking, and bathing is centrally treated or treated
17 at the point of entry by the provider, a pass-through entity, or
18 the user to achieve the equivalent level of protection provided by
19 the Nebraska Safe Drinking Water Act and the rules and regulations
20 under the act.

21 (c) Special irrigation district means an irrigation
22 district in existence prior to May 18, 1994, that provides
23 primarily agricultural service through a piped water system with
24 only incidental residential or similar use if the system or the
25 residential or similar users of the system comply with exclusion

1 provisions of subdivision (b) (ii) or (iii) of this subdivision;

2 (10) Drinking water standards means rules and regulations
3 adopted and promulgated pursuant to section 71-5302 which (a)
4 establish maximum levels for harmful materials which, in the
5 judgment of the Director of Regulation and Licensure, may have an
6 adverse effect on the health of persons and (b) apply only to
7 public water systems;

8 (11) Lead free (a) when used with respect to solders and
9 flux means solders and flux containing not more than two-tenths
10 percent lead, (b) when used with respect to pipes and pipe fittings
11 means pipes and pipe fittings containing not more than eight
12 percent lead, and (c) when used with respect to plumbing fittings
13 and fixtures intended by the manufacturer to dispense water for
14 human ingestion means fittings and fixtures that are in compliance
15 with standards established in accordance with 42 U.S.C. 300g-6(e)
16 as such section existed on July 16, 2004;

17 (12) Community water system means a public water system
18 that (a) serves at least fifteen service connections used by
19 year-round residents of the area served by the system or (b)
20 regularly serves at least twenty-five year-round residents;

21 (13) Noncommunity water system means a public water
22 system that is not a community water system;

23 (14) Nontransient noncommunity water system means a
24 public water system that is not a community water system and
25 that regularly serves at least twenty-five of the same individuals

1 over six months per year; and

2 (15) Small system means a public water system that
3 regularly serves less than ten thousand individuals. + and

4 ~~(16) Probation means a disciplinary action not to exceed~~
5 ~~two years in length during which a certificate holder may continue~~
6 ~~to operate under terms and conditions fixed by the order of~~
7 ~~probation.~~

8 Sec. 1224. Section 71-5303, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-5303 (1) No person shall operate or maintain a public
11 water system without first obtaining a permit to operate such
12 system from the director. No fee shall be charged for the issuance
13 of such permit.

14 (2) The director shall inspect public water systems and
15 report findings to the owner, publish a list of those systems
16 not in compliance, and promote the training of and certify
17 the competence of operators. The director may deny, or revoke,
18 suspend, or refuse renewal of a permit, or certification, place
19 a certificate holder on probation, issue administrative orders
20 scheduling action to be taken, take emergency action as provided
21 in section 71-5304.01, and seek a temporary or permanent injunction
22 or such other legal process as is deemed necessary to obtain
23 compliance with the Nebraska Safe Drinking Water Act.

24 (3) The Department of Health and Human Services
25 Regulation and Licensure may deny, revoke, suspend, or refuse to

1 ~~renew a permit or certification or place a certificate holder on~~
2 ~~probation.~~ A permit may be denied or revoked for noncompliance with
3 the act, the rules and regulations adopted and promulgated under
4 the act, or the terms of a variance or exemption issued pursuant
5 to section 71-5310.

6 (4) Any person shall be granted, upon request, an
7 opportunity for a hearing before the department under the
8 Administrative Procedure Act prior to the denial or revocation
9 of a permit, ~~or certification or the placement of a certificate~~
10 ~~holder on probation.~~ The denial, or revocation, ~~or the placement on~~
11 ~~probation by the department~~ may be appealed, and the appeal shall
12 be in accordance with the Administrative Procedure Act.

13 Sec. 1225. Section 71-5305.02, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 71-5305.02 The Department of Health and Human Services
16 Regulation and Licensure shall develop a capacity development
17 strategy to assist public water systems in acquiring and
18 maintaining technical, managerial, and financial capacity pursuant
19 to section 71-5305.01. The department shall consider and solicit
20 public comment on:

21 (1) The methods or criteria the department will use to
22 identify and prioritize the public water systems most in need of
23 improving technical, managerial, and financial capacity;

24 (2) A description of the institutional, regulatory,
25 financial, tax, or legal factors at the federal, state, or local

1 level that encourage or impair capacity development;

2 (3) A description of how the department will:

3 (a) Assist public water systems in complying with the
4 Nebraska Safe Drinking Water Act;

5 (b) Encourage the development of partnerships between
6 public water systems to enhance the technical, managerial, and
7 financial capacity of the systems; and

8 (c) Assist public water systems in the training and
9 ~~certification~~ licensure of operators; and

10 (4) A description of how the department will establish a
11 baseline and measure improvements in capacity with respect to the
12 act.

13 Sec. 1226. Section 71-5307, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-5307 No public water system shall be issued or
16 otherwise hold a permit to operate a public water system, granted
17 by the department, unless its operator possesses a ~~certificate of~~
18 ~~competency~~ license issued by the department.

19 Sec. 1227. Section 71-5308, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-5308 ~~(1)~~ Application for a ~~certificate of competency~~
22 license to act as a ~~certified~~ licensed operator of a public
23 water system shall be made ~~upon forms prepared by the director~~
24 ~~and shall contain such information as the director, by rule and~~
25 ~~regulation, deems necessary. If the applicant is an individual, the~~

1 ~~application shall include the applicant's social security number.~~
2 as provided in the Uniform Credentialing Act. The department shall
3 establish and collect fees for ~~certificates of competency licenses~~
4 as provided in ~~section 71-162.~~ sections 51 to 57 of this act. An
5 operator shall be licensed in the same manner as an individual
6 under subsection (1) of section 21 of this act and shall be subject
7 to the reporting, investigatory, and disciplinary provisions of
8 sections 76 to 85, 106, 109 to 126, and 137 to 139 of this act.
9 In addition to the grounds for disciplinary action found in the
10 Uniform Credentialing Act, a license issued under the Nebraska Safe
11 Drinking Water Act may be disciplined for any violation of the act
12 or the rules and regulations adopted and promulgated under the act.

13 An individual holding a certificate as a certified
14 operator of a public water system under the Nebraska Safe Drinking
15 Water Act on December 1, 2008, shall be deemed to be holding
16 a license under the Uniform Credentialing Act and the Nebraska
17 Safe Drinking Water Act on such date. The certificate holder
18 may continue to practice under such certificate as a license in
19 accordance with such acts until the certificate would have expired
20 under its terms.

21 ~~(2)~~ Certificates of competency to act as certified
22 operators of public water systems shall be issued by the department
23 for the calendar years applied for and shall expire at midnight
24 on December 31 of the third year. ~~Certificates of competency~~
25 ~~may be renewed triennially upon application and completion of~~

1 continuing competency requirements established by the department in
2 rules and regulations. The requirements may include, but not be
3 limited to, one or more of the continuing competency activities
4 listed in section 71-161.09. The department shall notify each
5 certificate holder at least ninety days before the expiration of
6 the certificate by a letter addressed to him or her at his or her
7 last place of residence as noted upon its records.

8 (3) The department shall, within thirty days after
9 receipt of an application, make an investigation and, if found
10 in compliance with regulations adopted pursuant to section 71-5309,
11 shall issue a certificate of competency, valid until midnight of
12 December 31 of the third year.

13 Sec. 1228. Section 71-5309, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-5309 (1) The director shall adopt and promulgate
16 minimum necessary rules and regulations governing the
17 qualifications of operators of public water systems. In
18 adopting such rules and regulations, the director shall give
19 consideration to the levels of training and experience which are
20 required, in the opinion of the director, to insure to the greatest
21 extent possible that the public water systems shall be operated
22 in such a manner that (a) maximum efficiency can be attained, (b)
23 interruptions in service will not occur, (c) chemical treatment of
24 the water will be adequate to maintain purity and safety, and (d)
25 harmful materials will not enter the public water system.

1 (2) The director may require, by rule and regulation,
2 that the applicant for a certificate of competency license
3 successfully pass an examination on the subject of operation
4 of a public water system. The rules and regulations, and any tests
5 so administered, may set out different requirements for public
6 water systems based on one or more of the following: Physical size
7 of the facilities, number of persons served, system classification,
8 source of water, treatment technique and purpose, and distribution
9 complexity, so long as the criteria set forth in this section are
10 followed.

11 ~~(2)~~ Any such certificate of competency may be denied,
12 suspended, revoked, or refused renewal by the director for due
13 cause. The holder of a certificate of competency may also be
14 placed on probation by the director for due cause. Due cause
15 shall include, but not be limited to, ~~(a)~~ fraud in processing
16 the certificate, ~~(b)~~ habitual intoxication or addiction to the
17 use of drugs, ~~(c)~~ conviction of a felony, ~~(d)~~ physical or mental
18 incapacity to perform professional duties, ~~(e)~~ violation of any
19 of the provisions of the Nebraska Safe Drinking Water Act or any
20 rules or regulations adopted and promulgated under such act, and
21 ~~(f)~~ failure to pay the required fee. If a certificate holder is
22 placed on probation, his or her certificate may be revoked if
23 the probationary requirements are not followed. Except in cases
24 of failure to pay the required fees, no certificate of competency
25 shall be denied, suspended, or revoked except after due notice and

1 ~~opportunity for a hearing. Any denial, suspension, or revocation of~~
2 ~~such certificate of competency or the placement of a certificate~~
3 ~~holder on probation may be appealed, and the appeal shall be in~~
4 ~~accordance with the Administrative Procedure Act.~~

5 Sec. 1229. Section 71-5311, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-5311 (1) There is hereby established the Advisory
8 Council on Public Water Supply which shall advise and assist the
9 department in administering the Nebraska Safe Drinking Water Act.

10 (2) The council shall be composed of seven members
11 appointed by the Governor, (a) one of whom shall be a professional
12 engineer, (b) one of whom shall be a licensed physician, (c) two
13 of whom shall be consumers of a public water system, (d) two
14 of whom shall be operators of a public water system who possess
15 a ~~certificate of competency~~ license issued by the Department of
16 Health and Human Services Regulation and Licensure to operate a
17 public water system. One such operator shall represent a system
18 serving a population of five thousand or less, and one such
19 operator shall represent a system serving a population of more
20 than five thousand, and (e) one of whom shall be, at the time of
21 appointment, (i) an individual who owns a public water system, (ii)
22 a member of the governing board of a public or private corporation
23 which owns a public water system, or (iii) in the case of a
24 political subdivision which owns a public water system, a member
25 of the subdivision's governing board or board of public works

1 or similar board which oversees the operation of a public water
2 system.

3 ~~Any owner or operator of a public water system serving~~
4 ~~on the council on March 27, 1989, shall continue to serve until the~~
5 ~~term of such member expires. As his or her term expires, such owner~~
6 ~~or operator shall be replaced by a person qualified as prescribed~~
7 ~~in subdivisions (d) and (e) of this subsection respectively.~~

8 (3) All members shall be appointed for three-year terms.
9 No member shall serve more than three consecutive three-year terms.
10 Each member shall hold office until the expiration of his or her
11 term or until a successor has been appointed. Any vacancy occurring
12 in council membership, other than by expiration of term, shall be
13 filled within sixty days by the Governor by appointment from the
14 appropriate category for the unexpired term.

15 (4) The council shall meet not less than once each year.
16 Special meetings of the council may be called by the director
17 or upon the written request of any two members of the council
18 explaining the reason for such meeting. The place of the meeting
19 shall be set by the director. Such officers as the council deems
20 necessary shall be elected every three years beginning with the
21 first meeting in the year 1990. A majority of the members of the
22 council shall constitute a quorum for the transaction of business.
23 Representatives of the department shall attend each meeting. Every
24 act of the majority of the members of the council shall be deemed
25 to be the act of the council.

1 (5) No member of the council shall receive any
2 compensation, but each member shall be entitled, while serving on
3 the business of the council, to receive his or her travel and other
4 necessary expenses while so serving away from his or her place of
5 residence as provided in sections 81-1174 to 81-1177.

6 Sec. 1230. (1) All rules and regulations adopted prior to
7 the operative date of this section under the Nebraska Safe Drinking
8 Water Act shall continue to be effective to the extent not in
9 conflict with the changes made by this legislative bill.

10 (2) All certificates or other forms of approval issued
11 prior to the operative date of this section in accordance with
12 the Nebraska Safe Drinking Water Act shall remain valid as issued
13 for purposes of the changes made by this legislative bill unless
14 revoked or otherwise terminated by law.

15 (3) Any suit, action, or other proceeding, judicial or
16 administrative, which was lawfully commenced prior to the operative
17 date of this section under the Nebraska Safe Drinking Water Act
18 shall be subject to the provisions of the act as they existed prior
19 to the operative date of this section.

20 Sec. 1231. Section 71-5313, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-5313 Sections 71-5301 to 71-5313 and section 1230 of
23 this act shall be known and may be cited as the Nebraska Safe
24 Drinking Water Act.

25 Sec. 1232. Section 71-5402, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 71-5402 For purposes of the Nebraska Drug Product
3 Selection Act, unless the context otherwise requires:

4 (1) Bioequivalent means drug products: (a) That are
5 legally marketed under regulations promulgated by the federal
6 Food and Drug Administration; (b) that are the same dosage form
7 of the identical active ingredients in the identical amounts
8 as the drug product prescribed; (c) that comply with compendial
9 standards and are consistent from lot to lot with respect to (i)
10 purity of ingredients, (ii) weight variation, (iii) uniformity of
11 content, and (iv) stability; and (d) for which the federal Food and
12 Drug Administration has established bioequivalent standards or has
13 determined that no bioequivalence problems exist;

14 (2) Board means the Board of Pharmacy;

15 (3) Brand name means the proprietary or trade name
16 selected by the manufacturer, distributor, or packager for a drug
17 product and placed upon the labeling of such product at the time
18 of packaging;

19 (4) Chemically equivalent means drug products that
20 contain amounts of the identical therapeutically active ingredients
21 in the identical strength, quantity, and dosage form and that meet
22 present compendial standards;

23 (5) Department means the Department of Health and Human
24 Services Regulation and Licensure;

25 (6) Drug product means any drug or device as defined in

1 section ~~71-1,142,~~ 937 of this act;

2 (7) Drug product select means to dispense, without the
3 practitioner's express authorization, an equivalent drug product in
4 place of the brand-name drug product contained in a medical order
5 of such practitioner;

6 (8) Equivalent means drug products that are both
7 chemically equivalent and bioequivalent;

8 (9) Generic name means the official title of a drug or
9 drug combination as determined by the United States Adopted Names
10 Council and accepted by the federal Food and Drug Administration of
11 those drug products having the same active chemical ingredients in
12 the same strength and quantity;

13 (10) Medical order has the definition found in section
14 ~~71-1,142,~~ 924 of this act;

15 (11) Pharmacist means a pharmacist licensed under the
16 ~~Uniform Licensing Law;~~ Pharmacy Practice Act; and

17 (12) Practitioner has the definition found in section
18 ~~71-1,142,~~ 934 of this act.

19 Sec. 1233. Section 71-5654, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-5654 The Nebraska Rural Health Advisory Commission is
22 hereby created as the direct and only successor to the Commission
23 on Rural Health Manpower. The Nebraska Rural Health Advisory
24 Commission shall consist of thirteen members as follows:

25 (1) The Director of Regulation and Licensure or his or

1 her designee and the Director of Health and Human Services or his
2 or her designee; and

3 (2) Eleven members to be appointed by the Governor with
4 the advice and consent of the Legislature as follows:

5 (a) One representative of each medical school located in
6 the state involved in training family physicians and one physician
7 in family practice residency training; and

8 (b) From rural areas one physician, one consumer
9 representative, one hospital administrator, one nursing home
10 administrator, one nurse, one physician assistant, one mental
11 health practitioner or psychologist licensed under the requirements
12 of section ~~71-1,206-15~~ 1048 of this act or the equivalent thereof,
13 and one dentist.

14 Members shall serve for terms of three years. When a
15 vacancy occurs, appointment to fill the vacancy shall be made
16 for the balance of the term. All appointed members shall be
17 citizens and residents of Nebraska. The appointed membership of
18 the commission shall, to the extent possible, represent the three
19 congressional districts equally.

20 Sec. 1234. Section 71-5662, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-5662 (1) To be eligible for a student loan under the
23 Rural Health Systems and Professional Incentive Act, an applicant
24 or a recipient shall be enrolled or accepted for enrollment in
25 an accredited medical or dental education program or physician

1 assistant education program or an approved mental health practice
2 program in Nebraska.

3 (2) To be eligible for loan repayment under the act,
4 an applicant or a recipient shall be a pharmacist, a dentist,
5 a physical therapist, an occupational therapist, a mental health
6 practitioner, a psychologist licensed under the requirements of
7 section ~~71-1,206.15~~ 1048 of this act or the equivalent thereof,
8 an advanced practice registered nurse, a physician assistant, or
9 a physician in an approved specialty and shall be licensed to
10 practice in Nebraska, not be enrolled in a residency program,
11 not be practicing under a provisional or temporary license, and
12 enter practice in a designated health profession shortage area in
13 Nebraska.

14 Sec. 1235. Section 71-6038, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-6038 For purposes of sections 71-6038 to 71-6042 and
17 section 1240 of this act:

18 (1) Complicated feeding problems include, but are not
19 limited to, difficulty swallowing, recurrent lung aspirations, and
20 tube or parenteral or intravenous feedings;

21 (2) Department means the Department of Health and Human
22 Services Regulation and Licensure;

23 (3) Nursing assistant means any person employed by a
24 nursing home for the purpose of aiding a licensed registered or
25 practical nurse through the performance of nonspecialized tasks

1 related to the personal care and comfort of residents other than a
2 paid dining assistant or a licensed registered or practical nurse;

3 (4) Nursing home means any facility or a distinct part
4 of any facility that provides care as defined in sections 71-420,
5 71-421, 71-422, 71-424, and 71-429; and

6 (5) Paid dining assistant means any person employed by
7 a nursing home for the purpose of aiding a licensed registered
8 or practical nurse through the feeding of residents other than a
9 nursing assistant or a licensed registered or practical nurse.

10 Sec. 1236. Section 71-6039, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-6039 (1) No person shall act as a nursing assistant in
13 a nursing home unless such person:

14 (a) Is at least sixteen years of age and has not been
15 convicted of a crime involving moral turpitude;

16 (b) Is able to speak and understand the English language
17 or a language understood by a substantial portion of the nursing
18 home residents; and

19 (c) Has successfully completed a basic course of training
20 approved by the department for nursing assistants within one
21 hundred twenty days of initial employment in the capacity of a
22 nursing assistant at any nursing home. ~~if employment begins after~~
23 ~~January 1, 1984.~~

24 (2) The department may prescribe a curriculum for
25 training nursing assistants and may adopt and promulgate rules

1 and regulations for such courses of training. The content of
2 the courses of training and competency evaluation programs shall
3 be consistent with federal requirements unless exempted. The
4 department may approve courses of training if such courses of
5 training meet the requirements of this section. Such courses of
6 training shall include instruction on the responsibility of each
7 nursing assistant to report suspected abuse or neglect pursuant
8 to sections 28-372 and 28-711. Nursing homes may carry out
9 approved courses of training within the nursing home, except that
10 nursing homes may not conduct the competency evaluation part of
11 the program. The prescribed training shall be administered by a
12 licensed registered nurse.

13 (3) For nursing assistants at intermediate care
14 facilities for the mentally retarded, such courses of training
15 shall be no less than twenty hours in duration and shall include
16 at least fifteen hours of basic personal care training and five
17 hours of basic therapeutic and emergency procedure training, and
18 for nursing assistants at all nursing homes other than intermediate
19 care facilities for the mentally retarded, such courses shall be no
20 less than seventy-five hours in duration.

21 (4) This section shall not prohibit any facility from
22 exceeding the minimum hourly or training requirements.

23 Sec. 1237. Section 71-6040, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-6040 The department shall approve all courses,

1 lectures, seminars, course materials, or other instructional
2 programs used to meet the requirements of sections 71-6038 to
3 71-6042 and section 1240 of this act.

4 Sec. 1238. Section 71-6041, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-6041 To protect the health, safety, and welfare of
7 nursing home residents and the public, the department shall adopt
8 and promulgate such rules and regulations as are necessary for the
9 effective administration of sections 71-6038 to 71-6042 and section
10 1240 of this act. Such rules and regulations shall be consistent
11 with federal requirements developed by the United States Department
12 of Health and Human Services.

13 Sec. 1239. Section 71-6042, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 71-6042 The department shall have the authority to
16 enforce sections 71-6038 to 71-6042 and section 1240 of this
17 act and rules and regulations adopted under section 71-6041 by
18 any of the following means: Denial, suspension, restriction, or
19 revocation of a nursing home's license, refusal of the renewal of a
20 nursing home's license, restriction of a nursing home's admissions,
21 or any other enforcement provision granted to the department.

22 Sec. 1240. Nursing assistants and paid dining assistants
23 are eligible to participate in the Licensee Assistance Program as
24 prescribed by section 75 of this act.

25 Sec. 1241. Section 71-6211, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-6211 Health professional group not previously
3 regulated shall mean those persons or groups who are not currently
4 licensed or otherwise regulated under ~~Chapter 71,~~ the Uniform
5 Credentialing Act, who are determined by the director to be
6 qualified by training, education, or experience to perform
7 the functions prescribed in this section, and whose principal
8 functions, customarily performed for remuneration, are to render
9 services directly or indirectly to individuals for the purpose of:

10 (1) Preventing physical, mental, or emotional injury or
11 illness, excluding persons acting in their capacity as clergy;

12 (2) Facilitating recovery from injury or illness; or

13 (3) Providing rehabilitative or continuing care following
14 injury or illness.

15 Sec. 1242. Section 71-6218, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-6218 Regulated health professions shall mean those
18 persons or groups who are currently licensed or otherwise regulated
19 under ~~Chapter 71,~~ the Uniform Credentialing Act, who are qualified
20 by training, education, or experience to perform the functions
21 prescribed in this section, and whose principal functions,
22 customarily performed for remuneration, are to render services
23 directly or indirectly to individuals for the purpose of:

24 (1) Preventing physical, mental, or emotional injury or
25 illness;

1 (2) Facilitating recovery from injury or illness; or

2 (3) Providing rehabilitative or continuing care following
3 injury or illness.

4 Sec. 1243. Section 71-6301, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-6301 For purposes of the Asbestos Control Act, unless
7 the context otherwise requires:

8 (1) Asbestos means asbestiform varieties of chrysotile,
9 crocidolite, amosite, anthophyllite, tremolite, and actinolite;

10 (2) Asbestos encapsulation project means activities which
11 include the coating of asbestos-containing surface material with a
12 bridging or penetrating type of sealing material for the intended
13 purpose of preventing the continued release of asbestos fibers
14 from the material into the air. Such project does not include the
15 repainting of a previously painted nonfriable asbestos-containing
16 surface which is not damaged primarily for improving the appearance
17 of such surface;

18 (3) Asbestos enclosure project means activities which
19 physically isolate friable asbestos and which control and contain
20 fibers released from asbestos-containing material by constructing a
21 permanent airtight barrier between the asbestos-containing material
22 and the occupied building space;

23 (4) Asbestos occupation means an inspector, management
24 planner, project designer, project monitor, supervisor, or worker;

25 (5) Asbestos project means an asbestos enclosure project,

1 an asbestos encapsulation project, an asbestos removal project,
2 an asbestos-related demolition project, or an asbestos-related
3 dismantling project but does not include (a) any activities which
4 affect three square feet or less or three linear feet or less
5 of asbestos-containing material on or in a structure or equipment
6 or any appurtenances thereto or (b) any activities physically
7 performed by a homeowner, a member of the homeowner's family, or an
8 unpaid volunteer on or in the homeowner's residential property of
9 four units or less;

10 (6) Asbestos removal project means activities which
11 include the physical removal of friable asbestos-containing
12 material from the surface of a structure or from equipment which
13 is intended to remain in place after the removal. Such project
14 also includes the physical removal of asbestos from a structure or
15 equipment after such structure or equipment has been removed as
16 part of an asbestos-related dismantling project;

17 (7) Asbestos-related demolition project means activities
18 which include the razing of all or a portion of a structure
19 which contains friable asbestos-containing materials or other
20 asbestos-containing materials which may become friable when
21 such materials are cut, crushed, ground, ~~abraided,~~ abraded, or
22 pulverized;

23 (8) Asbestos-related dismantling project means activities
24 which include the disassembly, handling, and moving of the
25 components of any structure or equipment which has been coated with

1 asbestos-containing material without first removing such material
2 from the structure or from the equipment;

3 (9) Business entity means a partnership, limited
4 liability company, firm, association, corporation, sole
5 proprietorship, public entity, or other public or private
6 business concern involved in an asbestos project except an entity
7 solely involved as a management planner or project designer;

8 ~~(10) Certificate means an authorization issued by the~~
9 ~~department permitting an individual person to work in an asbestos~~
10 ~~occupation;~~

11 ~~(11) (10) Demolition means the wrecking, razing, or~~
12 ~~removal of any structure or load-supporting structural item of any~~
13 ~~structure, including any related material handling operations, and~~
14 ~~includes the intentional burning of any structure;~~

15 ~~(12) (11) Department means the Department of Health and~~
16 ~~Human Services Regulation and Licensure;~~

17 ~~(13) (12) Director means the Director of Regulation and~~
18 ~~Licensure or his or her designee;~~

19 ~~(14) (13) Enclosure means the construction of an~~
20 ~~airtight, impermeable, permanent barrier around asbestos-containing~~
21 ~~material to control the release of asbestos fibers into the air;~~

22 ~~(15) (14) Friable asbestos means asbestos in a form which~~
23 ~~can be crumbled, pulverized, or reduced to powder by hand pressure;~~

24 ~~(16) (15) Inspector means an individual who is certified~~
25 ~~licensed by the department to identify and assess the condition of~~

1 asbestos-containing material;

2 ~~(17)~~ (16) Instructor means an individual who is approved
3 by the department to teach an asbestos-related training course;

4 ~~(18)~~ (17) License means an authorization issued by the
5 department ~~permitting a business entity to engage in an asbestos~~
6 ~~project,~~ to an individual to engage in a profession or to a
7 business to provide services which would otherwise be unlawful in
8 this state in the absence of such authorization;

9 ~~(19)~~ (18) Management planner means an individual who
10 is ~~certified~~ licensed by the department to assess the hazard
11 of materials containing asbestos, to determine the appropriate
12 response actions, and to write management plans;

13 ~~(20)~~ (19) Project designer means an individual who is
14 ~~certified~~ licensed by the department to formulate plans and write
15 specifications for conducting asbestos projects;

16 ~~(21)~~ (20) Project monitor means an individual who
17 is ~~certified~~ licensed by the department to observe abatement
18 activities performed by contractors, to represent the building
19 owner to ensure work is completed according to specifications and
20 in compliance with statutes and regulations, and to perform air
21 monitoring to determine final clearance;

22 ~~(22)~~ (21) Project review means review of a licensed
23 business entity's proposed asbestos project;

24 ~~(23)~~ (22) Renovation means the altering of a structure,
25 one or more structural items, or one or more equipment items in

1 any way, including any asbestos project performed on a structure,
2 structural item, or equipment item;

3 ~~(24)~~ (23) Supervisor means an individual who is ~~certified~~
4 licensed by the department to supervise and direct an asbestos
5 project in accordance with the Asbestos Control Act and the rules
6 and regulations adopted and promulgated pursuant to such act; and

7 ~~(25)~~ (24) Worker means an individual who is ~~certified~~
8 licensed by the department to clean, handle, repair, remove,
9 encapsulate, haul, dispose of, or otherwise work with asbestos
10 material in a nonsupervisory capacity.

11 Sec. 1244. Section 71-6303, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-6303 (1) The department shall administer the Asbestos
14 Control Act.

15 (2) The department shall adopt and promulgate rules and
16 regulations necessary to carry out the act. The department shall
17 adopt state standards governing asbestos projects and may adopt
18 or incorporate part or all of any federal standards in the state
19 standards so long as state standards are no less stringent than
20 federal standards.

21 ~~(3)~~ (3) (a) The department shall prescribe fees based upon
22 the following schedule:

23 ~~(a)~~ (i) For a business entity license or license renewal,
24 not less than two thousand dollars or more than five thousand
25 dollars;

1 ~~(b)~~ (ii) For waiver on an emergency basis of a business
2 entity license, not less than two thousand dollars or more than
3 five thousand dollars;

4 ~~(c)~~ (iii) For waiver of a license for a business entity
5 not primarily engaged in asbestos projects, not less than two
6 thousand dollars or more than five thousand dollars;

7 ~~(d)~~ (iv) For approval of an initial training course, not
8 less than one thousand dollars or more than two thousand five
9 hundred dollars, which fee shall include one onsite inspection if
10 the inspection is required by the department;

11 ~~(e)~~ (v) For approval of a review course or a four-hour
12 course on Nebraska law, rules, and regulations, not less than five
13 hundred dollars or more than one thousand dollars, which fee shall
14 include one onsite inspection if the inspection is required by the
15 department;

16 ~~(f)~~ (vi) For an onsite inspection of an asbestos project
17 other than an initial inspection, not less than one hundred fifty
18 dollars or more than two hundred fifty dollars. Such fees shall not
19 be assessed for more than three onsite inspections per year during
20 the period an actual asbestos project is in progress; and

21 ~~(g)~~ (vii) For a project review of each asbestos project
22 of a licensed business entity which is equal to or greater than
23 two hundred sixty linear feet or any combination which is equal
24 to or greater than one hundred sixty square feet and linear feet,
25 including any initial onsite inspection, not less than two hundred

1 dollars or more than five hundred dollars.

2 (b) Any ~~such~~ business applicant whose application is
3 rejected shall be allowed the return of the application fee,
4 except that an administrative charge of three hundred dollars for a
5 license and one hundred dollars for approval of a training course
6 shall be retained by the department.

7 (c) All fees shall be based on the costs of administering
8 the Asbestos Control Act. In addition to the fees prescribed in
9 this section, the department may charge and receive the actual
10 costs for board, room, and travel by employees in excess of
11 three hundred dollars, which costs shall not exceed the amounts
12 allowable in sections 81-1174 to 81-1177. All such fees collected
13 by the department shall be remitted to the State Treasurer for
14 credit to the Department of Health and Human Services Regulation
15 and Licensure Cash Fund. Money credited to the fund pursuant to
16 this section shall be used by the department for the purpose of
17 administering the act.

18 (4) At least once a year during the continuation of an
19 asbestos project, the department shall conduct an onsite inspection
20 of each licensed business entity's procedures for performing
21 asbestos projects.

22 (5) The department may enter into agreements or contracts
23 with public agencies to conduct any inspections required under the
24 act.

25 (6) The department shall adopt and promulgate rules and

1 regulations defining work practices for asbestos projects. The
2 department may provide for alternatives to specific work practices
3 when the health, safety, and welfare of all classes of asbestos
4 occupations and the general public are adequately protected.

5 (7) The department may apply for and receive funds from
6 the federal government and any other public or private entity for
7 the purposes of administering the act.

8 ~~(8) The department shall establish and collect fees~~
9 ~~for issuance and renewal of certificates as provided in section~~
10 ~~71-162 for persons certified under section 71-6310. The department~~
11 ~~shall adopt and promulgate rules and regulations to establish~~
12 ~~continuing competency requirements for persons certified under~~
13 ~~the act. Continuing education is sufficient to meet continuing~~
14 ~~competency requirements. The requirements may also include, but not~~
15 ~~be limited to, one or more of the continuing competency activities~~
16 ~~listed in section 71-161.09 which a certified person may select as~~
17 ~~an alternative to continuing education.~~

18 Sec. 1245. Section 71-6304, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-6304 To qualify for a license, a business entity
21 shall:

22 (1) Own or demonstrate immediate and continuing access to
23 and maintain in operable condition modern and effective equipment,
24 as prescribed by the department, which is designed for use in
25 asbestos projects;

1 (2) Ensure that each employee or agent of the business
2 entity who will come into contact with asbestos or who will be
3 present on an asbestos project is ~~certified~~ licensed as required by
4 the Asbestos Control Act;

5 (3) Demonstrate to the satisfaction of the department
6 that the business entity is capable of complying with all
7 applicable requirements, procedures, and standards pertaining to
8 the asbestos project;

9 (4) Have access to at least one approved asbestos
10 disposal site for deposit of all asbestos waste that the business
11 entity will generate during the term of the license; and

12 (5) Meet any other standards which the department may
13 deem necessary to protect the health, safety, and welfare of all
14 classes of asbestos occupations and the general public.

15 Sec. 1246. Section 71-6305, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-6305 (1) To apply for a license, a business entity
18 shall submit an application to the department in the form required
19 by the department and shall pay the fee prescribed by the
20 department.

21 (2) The application shall include, but not be limited to:

22 (a) The name, address, and nature of the business entity;

23 (b) A statement that all ~~persons~~ individuals who will
24 engage in any asbestos project for the ~~licensee~~ business entity
25 will be ~~certified~~ licensed as required by the Asbestos Control Act;

1 (c) A description of the protective clothing and
2 respirators that the business entity will use;

3 (d) The name and address of each asbestos disposal site
4 that the business entity will use;

5 (e) A description of the site decontamination procedures
6 that the business entity will use;

7 (f) A description of the removal, enclosure,
8 encapsulation, demolition, dismantling, and maintenance methods
9 that the business entity will use;

10 (g) A description of the procedures that the business
11 entity will use for handling waste containing asbestos;

12 (h) A description of the air monitoring procedures that
13 the business entity will use;

14 (i) A description of the procedures that the business
15 entity will use in cleaning up the asbestos project;

16 (j) The signature of the chief executive officer of the
17 business entity or his or her designee; and

18 (k) Such other information as may be necessary for the
19 efficient administration and enforcement of the act and for the
20 protection of the health, safety, and welfare of the general public
21 and all classes of asbestos occupations.

22 Sec. 1247. Section 71-6306, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-6306 (1) A license ~~or certificate~~ of a business entity
25 shall expire on the first anniversary of its effective date unless

1 it is renewed for one year as provided in this section.

2 (2) At least thirty days before the license ~~or~~
3 ~~certificate~~ expires, the department shall send to the licensee
4 ~~or certificate holder~~ at his or her last-known address a renewal
5 notice which states:

6 (a) The date on which the current license ~~or certificate~~
7 expires;

8 (b) The date by which the renewal application must be
9 received by the department for the renewal to be issued and mailed
10 before the license ~~or certificate~~ expires; and

11 (c) The amount of the renewal fee.

12 (3) Before the license ~~or certificate~~ expires, the
13 licensee ~~or certificate holder~~ may renew it for an additional
14 one-year period if the licensee; ~~or certificate holder;~~

15 (a) Is otherwise entitled to be licensed; ~~or~~
16 ~~certificated;~~

17 (b) Submits a renewal application to the department in
18 the form required by the department; and

19 (c) Pays the renewal fee prescribed by the department.

20 Sec. 1248. Section 71-6307, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-6307 The licensee or a business entity, whether
23 excepted from the requirements for licensure by section 71-6302
24 or whether operating under a waiver, shall keep a record of
25 each asbestos project and shall make the record available to the

1 department at any reasonable time. All such records shall be kept
2 for at least thirty years. Each record shall include:

3 (1) The name, address, and ~~certificate~~ license number of
4 the individual who supervised the asbestos project and of each
5 employee or agent who worked on the project;

6 (2) The location and description of the project and the
7 amount of asbestos material that was removed;

8 (3) The starting and completion dates of each instance
9 of asbestos encapsulation, demolition, dismantling, maintenance, or
10 removal;

11 (4) A summary of the procedures that were used to comply
12 with all applicable standards;

13 (5) The name and address of each asbestos disposal site
14 where the waste containing asbestos was deposited; and

15 (6) Such other information as the department may deem
16 necessary for the efficient administration and enforcement of the
17 Asbestos Control Act and for the protection of the health, safety,
18 and welfare of all classes of asbestos occupations and the general
19 public.

20 Sec. 1249. Section 71-6309, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-6309 (1) In the event of an emergency in which, in
23 the opinion of the director, there is created a situation of
24 present and severe danger which poses an immediate threat to the
25 public health, safety, and welfare, the director may waive the

1 requirement for licensure ~~or certification~~ of an individual or
2 business entity upon application and payment of the fee prescribed
3 by the department. Such emergency waiver shall be limited to the
4 time required to take protective measures.

5 (2) The department may, on a case-by-case basis, approve
6 an alternative to a specific worker protection requirement for
7 an asbestos project if the business entity submits a written
8 description of the alternative procedure and demonstrates to the
9 department's satisfaction that the proposed alternative procedure
10 provides equivalent protection to the health, safety, and welfare
11 of all classes of asbestos occupations and the general public.

12 (3) If the business entity is not primarily engaged in
13 asbestos projects, the department may waive the requirement for
14 a license upon application and payment of the fee prescribed by
15 the department if worker protection requirements are met or an
16 alternative procedure is approved pursuant to subsection (2) of
17 this section and the health, safety, and welfare of the general
18 public is protected.

19 Sec. 1250. Section 71-6310, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-6310 (1) An individual ~~person~~ shall not be eligible to
22 work on an asbestos project unless the ~~person holds a certificate~~
23 individual holds the appropriate class of license issued by the
24 department. Application for a license shall be made as provided in
25 the Uniform Credentialing Act. An individual shall be credentialed

1 in the same manner as an individual under subsection (1) of section
2 21 of this act and shall be subject to the disciplinary provisions
3 of the act as provided in section 71-6314.

4 (2) The department shall issue the following classes of
5 ~~certificates~~ licenses: Worker; supervisor; inspector; management
6 planner; project monitor; and project designer. To qualify for a
7 ~~certificate~~ license of a particular class, a ~~person~~ an individual
8 shall have (a) successfully completed a training course approved or
9 administered by the department, (b) been examined by a physician
10 within the preceding year and declared by the physician to be
11 physically capable of working while wearing a respirator, and (c)
12 passed an examination approved or administered by the department
13 with at least the minimum score prescribed by the department. An
14 individual holding such a certificate on December 1, 2008, shall be
15 deemed to be holding a license under the Uniform Credentialing Act
16 and the Asbestos Control Act on such date. The certificate holder
17 may continue to practice under such certificate as a license in
18 accordance with such acts until the certificate would have expired
19 under its terms.

20 ~~(3) A certificate or renewal certificate shall be valid~~
21 ~~for one year from the date of issuance. To qualify for a renewal~~
22 ~~certificate, the applicant shall meet the requirements of section~~
23 ~~71-6310.02.~~

24 ~~(4) An application for a certificate, a renewal~~
25 ~~certificate, or approval shall be submitted to the department on a~~

1 form prescribed by the department, shall include the applicant's
2 social security number, and shall be accompanied by the prescribed
3 fee.

4 ~~(5)~~ (3) As an alternative to the qualifications in
5 subdivision (2)(a) of this section, a ~~person~~ an individual shall
6 have completed a fully accredited United States Environmental
7 Protection Agency Asbestos Hazard Emergency Response Act of ~~1976~~
8 1986 training program or the ~~person~~ individual shall be currently
9 accredited by a United States Environmental Protection Agency fully
10 accredited state asbestos model accreditation plan adopted pursuant
11 to 40 C.F.R. 763. In addition to the alternative qualifications,
12 the ~~person~~ individual shall successfully complete a four-hour
13 course approved by the department on Nebraska law, rules, and
14 regulations and shall pass an examination thereon which shall be
15 approved and may be administered by the department.

16 ~~(6)~~ (4) The department may issue a limited ~~certificate~~
17 license to a project designer or management planner who does not
18 intend to enter any management plan, project design, or asbestos
19 project worksite. An applicant for a limited ~~certificate~~ license
20 under this subsection shall not be required to comply with the
21 requirements of subdivision (2)(b) of this section. A holder
22 of a limited ~~certificate~~ license shall not enter any management
23 plan, project design, or asbestos project worksite. The limitation
24 shall be endorsed upon the ~~certificate~~. license. Violation of the
25 limitation shall be grounds for disciplinary action against the

1 ~~certificate~~ license pursuant to section 71-6314. An individual
2 holding a limited certificate on December 1, 2008, shall be deemed
3 to be holding a limited license under the Uniform Credentialing
4 Act and the Asbestos Control Act on such date. The certificate
5 holder may continue to practice under such limited certificate as
6 a limited license in accordance with such acts until the limited
7 certificate would have expired under its terms.

8 ~~(7)~~ (5) The department shall approve instructors of
9 training courses. To qualify for approval, an individual shall have
10 (a) graduated from high school or obtained a general educational
11 development certificate or equivalent document as determined by the
12 department, (b) successfully completed an approved four-hour course
13 on Nebraska law, rules, and regulations, and (c) at least one year
14 of actual work experience in the asbestos industry.

15 Sec. 1251. Section 71-6310.01, Reissue Revised Statutes
16 of Nebraska, is amended to read:

17 71-6310.01 (1) The department shall approve training
18 courses for each classification of asbestos occupation. Applicants
19 for course approval shall meet the requirements for each course and
20 shall submit an application on forms provided by the department
21 together with the prescribed fee. Approved course providers shall
22 use only approved instructors to teach each training course. The
23 department shall conduct onsite inspections of the training courses
24 offered by course providers.

25 (2) In order to be approved by the department, an initial

1 inspector training course shall meet the following requirements:
2 A three-day training course including lectures, demonstrations, a
3 field trip, at least four hours of hands-on training, individual
4 respirator-fit testing, and a written examination; background
5 information on asbestos and potential health effects related to
6 exposure to asbestos; functions, qualifications, and the role of
7 inspectors; legal liabilities and defenses; understanding building
8 systems; public, employee, and occupant relations; preinspection
9 planning and review of previous inspection records and inspecting
10 for friable and nonfriable asbestos-containing material and
11 assessing the condition of asbestos-containing material; bulk
12 sampling and documentation of asbestos; inspector respiratory
13 protection and personal protective equipment; and record keeping
14 and inspection report writing, regulatory review, and course
15 review. The written examination shall be approved and may be
16 administered by the department and shall be composed of questions
17 covering subjects dealing with the course content. The passing
18 score shall be determined by the department.

19 (3) In order to be approved by the department, an
20 initial management planner training course shall meet the following
21 requirements: A three-day inspector training course as outlined
22 in subsection (2) of this section and a two-day management
23 planner training course including lectures, demonstrations, and a
24 written examination; course overview; evaluation and interpretation
25 of survey results, hazard assessment, and legal implications;

1 evaluation and selection of control options; role of other
2 professionals; developing an operations and maintenance plan; and
3 regulatory review, record keeping for the management planner,
4 assembling and submitting the management plan, financing abatement
5 actions, and course review. The written examination shall be
6 approved and may be administered by the department and shall be
7 composed of questions covering subjects dealing with the course
8 content. The passing score shall be determined by the department.

9 (4) In order to be approved by the department, an
10 initial project designer training course shall meet the following
11 requirements: A three-day training course including lectures,
12 demonstrations, a field trip, and a written examination; background
13 information on asbestos and potential health effects related to
14 asbestos exposure; overview of abatement construction projects;
15 safety system design specifications, employee personal protective
16 equipment, and additional safety hazards; fiber aerodynamics and
17 control, designing abatement solutions, final clearance process,
18 and budgeting and cost estimation; writing abatement specifications
19 and preparing abatement drawings; contract preparation and
20 administration and legal liabilities and defenses; replacement of
21 asbestos with asbestos-free substitutes; role of other consultants;
22 occupied buildings; and relevant federal, state, and local
23 regulatory requirements and course review. The written examination
24 shall be approved and may be administered by the department and
25 shall be composed of questions covering subjects dealing with

1 the course content. The passing score shall be determined by the
2 department.

3 (5) In order to be approved by the department,
4 an initial project monitor training course shall meet the
5 following requirements: A five-day asbestos training course
6 including lectures, demonstrations, at least six hours of
7 hands-on training, and a written examination; roles and
8 responsibilities of the project monitor; characteristics of
9 asbestos and asbestos-containing materials; federal and state
10 asbestos regulation overview; understanding building construction
11 and building systems; asbestos abatement contracts, specifications,
12 and drawings; response actions and abatement practices; asbestos
13 abatement equipment; personal protective equipment; air monitoring
14 strategies; safety and health issues other than asbestos;
15 conducting visual inspections; final clearance process; legal
16 responsibilities and liabilities of project monitors; record
17 keeping and report writing; and course review. The written
18 examination shall be approved and may be administered by the
19 department and shall be composed of questions covering subjects
20 dealing with the course content. The passing score shall be
21 determined by the department.

22 (6) In order to be approved by the department, an
23 initial supervisor training course shall meet the following
24 requirements: A five-day asbestos training course including
25 lectures, demonstrations, at least fourteen hours of hands-on

1 training, individual respirator-fit testing, and a written
2 examination; the physical characteristics of asbestos and
3 asbestos-containing materials and potential health effects related
4 to asbestos exposure; employee personal protective equipment,
5 state-of-the-art work practices, personal hygiene, additional
6 safety hazards, medical monitoring, and air monitoring; relevant
7 federal, state, and local regulatory requirements; respiratory
8 protection programs, medical surveillance programs, and insurance
9 and liability issues; record keeping for asbestos abatement
10 projects and supervisory techniques for asbestos abatement
11 activity; contract specifications; and course review. The written
12 examination shall be approved and may be administered by the
13 department and shall be composed of questions covering subjects
14 dealing with the course content. The passing score shall be
15 determined by the department.

16 (7) In order to be approved by the department, an initial
17 worker training course shall meet the following requirements:
18 A four-day training course including lectures, demonstrations,
19 at least fourteen hours of hands-on training, individual
20 respirator-fit testing, and a written examination; physical
21 characteristics of asbestos, potential health effects related
22 to asbestos exposure, employee personal protective equipment,
23 state-of-the-art work practices, personal hygiene, additional
24 safety hazards, medical monitoring, and air monitoring; relevant
25 federal, state, and local regulatory requirements, procedures, and

1 standards; establishment of respiratory protection programs; and
2 course review. The written examination shall be approved and may be
3 administered by the department and shall be composed of questions
4 covering subjects dealing with the course content. The passing
5 score shall be determined by the department.

6 (8) In order to be approved by the department, a course
7 on Nebraska law, rules, and regulations required by subsection
8 ~~(5)~~ (3) of section 71-6310 shall consist of at least four hours
9 of training on Nebraska law, rules, and regulations relating
10 to asbestos. The written examination shall be approved and may
11 be administered by the department. The passing score shall be
12 determined by the department.

13 Sec. 1252. Section 71-6310.02, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 71-6310.02 (1) Any person certified individual licensed
16 in any of the asbestos occupations prescribed in section 71-6310,
17 as a condition for ~~certificate~~ license renewal, shall complete
18 continuing competency activities as required by the department
19 ~~pursuant to section 71-6303~~ and shall be examined and approved
20 by a physician as prescribed for initial applicants in section
21 71-6310. The ~~certificate holder~~ licensee shall submit evidence as
22 required by the department of satisfaction of the requirements of
23 this section.

24 (2) The department shall adopt and promulgate rules and
25 regulations to establish the continuing competency requirements

1 pursuant to the Uniform Credentialing Act. Continuing education
2 is sufficient to meet continuing competency requirements. The
3 requirements may also include, but not be limited to, one or
4 more of the continuing competency activities listed in section 45
5 of this act which a licensee may select as an alternative to
6 continuing education.

7 Sec. 1253. Section 71-6310.03, Reissue Revised Statutes
8 of Nebraska, is amended to read:

9 71-6310.03 If a project designer or a project monitor is
10 selected by the structure's owner or operator for an asbestos
11 project, the project designer and project monitor shall be
12 responsible for the following:

13 (1) Project designers shall prepare plans and
14 specifications for business entities conducting asbestos projects.
15 The plans and specifications shall be consistent with the criteria,
16 requirements, and best interests of the structure's owner or
17 operator and the requirements of the Asbestos Control Act.
18 The project designer shall represent the owner or operator and
19 ensure that these objectives are achieved by the business entity
20 conducting the project throughout the project;

21 (2) Prior to preparing plans and specifications for
22 any renovation project, a project designer shall ensure that any
23 equipment items and any structural items of a structure affected
24 by the renovation were inspected and assessed by a ~~certified~~
25 licensed inspector. Prior to preparing plans and specifications

1 for any demolition, a project designer shall ensure that the
2 entire structure was inspected and assessed by a ~~certified~~ licensed
3 inspector. No dismantling or salvage operation shall begin before
4 the inspection and assessment is completed;

5 (3) If a project designer or project monitor is selected
6 by the owner or operator of the structure on or in which the
7 asbestos project is conducted, he or she shall be independent
8 of the business entity selected to perform the asbestos project.
9 A private or public business entity which uses its own trained
10 and ~~certified~~ licensed employees to perform asbestos projects may
11 also use its own employees who are trained and ~~certified~~ licensed
12 as project designers or project monitors to design and monitor
13 projects conducted on or in its own structures; and

14 (4) If a project designer or project monitor is selected
15 by the structure's owner or operator for an asbestos project, the
16 project designer or project monitor shall oversee the activities
17 of a business entity conducting an asbestos project to ensure that
18 the requirements of the Asbestos Control Act and the rules and
19 regulations adopted and promulgated pursuant to the act are met.
20 Prior to allowing an asbestos project site to be returned to normal
21 occupancy or function, a project designer or project monitor shall
22 ensure that all waste, debris, and residue have been removed from
23 the site in compliance with the act and the rules and regulations
24 adopted and promulgated pursuant to the act.

25 Sec. 1254. The department shall establish and collect

1 fees for issuance and renewal of licenses as provided in sections
2 51 to 57 of this act for individuals licensed under section
3 71-6310.

4 Sec. 1255. Section 71-6312, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-6312 (1) ~~A person~~ An individual or business entity
7 which engages in an asbestos project without a valid license,
8 except as otherwise provided in the Asbestos Control Act, shall be
9 assessed a civil penalty of not less than five thousand dollars
10 nor more than twenty-five thousand dollars for the first offense
11 and not less than twenty-five thousand dollars nor more than one
12 hundred thousand dollars for a second or subsequent offense. Each
13 day a violation continues shall constitute a separate offense.

14 (2) ~~A person~~ An individual who engages in an asbestos
15 occupation without a valid ~~certificate,~~ license, except as
16 otherwise provided in the act, shall be assessed a civil penalty
17 of not less than five hundred dollars nor more than five thousand
18 dollars for the first offense and not less than one thousand
19 dollars nor more than fifteen thousand dollars for the second or
20 subsequent offense. Each day a violation continues shall constitute
21 a separate offense.

22 (3) Any business entity which knowingly engages in an
23 asbestos project but which uses employees who do not hold a
24 ~~certificate~~ license shall be assessed a civil penalty of not less
25 than five hundred dollars nor more than five thousand dollars for

1 the first offense and not less than five thousand dollars nor more
2 than ten thousand dollars for a second or subsequent offense. Each
3 day a violation continues shall constitute a separate offense.

4 (4) The civil penalties prescribed in subsections (1),
5 (2), and (3) of this section shall be assessed in a civil action
6 brought for such purpose by the Attorney General in the district
7 court of the county in which the violation occurred.

8 (5) ~~A person~~ An individual or business entity which has
9 been assessed a civil penalty under this section and subsequently
10 engages in an asbestos project or an asbestos occupation without a
11 valid ~~certificate or~~ license or using employees who do not hold a
12 ~~certificate,~~ license, except as otherwise provided in the Asbestos
13 Control Act:

14 (a) For a first offense, shall be guilty of a Class I
15 misdemeanor; and

16 (b) For a second or subsequent offense, shall be guilty
17 of a Class IV felony.

18 Sec. 1256. Section 71-6313, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-6313 The Attorney General may institute an action in
21 the name of the state for an injunction or other process against
22 any business entity or ~~person~~ individual to restrain or prevent
23 any violation of the Asbestos Control Act or of any rules and
24 regulations adopted and promulgated pursuant to such act.

25 Sec. 1257. Section 71-6314, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-6314 (1) When the department determines that a
3 ~~licensee~~ business entity that holds a license has violated the
4 Asbestos Control Act or any rule and regulation adopted and
5 promulgated pursuant to the act, the department may, rather
6 than initially instituting disciplinary proceedings pursuant to
7 subsection (2) of this section, within seven working days after a
8 finding of a violation is made, issue a citation to the licensee.
9 The citation shall be served upon the licensee personally or
10 by certified mail. Each citation shall specifically describe
11 the nature of the violation and identify the statute, rule, or
12 regulation violated. When a citation is served upon the licensee,
13 the licensee shall have seven working days to remedy the violation.
14 If such violation has not been remedied at the end of such time,
15 the department may take such other action as is deemed appropriate
16 pursuant to the Asbestos Control Act and the Administrative
17 Procedure Act.

18 (2) Independent of the provisions of subsection (1)
19 of this section, a license, ~~certificate~~, or approval issued
20 pursuant to the Asbestos Control Act may be denied, refused
21 renewal, suspended, or revoked when the applicant, or licensee,
22 ~~or certificate holder~~ violates any of the provisions of the
23 act, fraudulently or deceptively obtains or attempts to obtain a
24 license, ~~certificate~~, or approval, fails at any time to meet the
25 qualifications for a license, ~~certificate~~, or approval, fails to

1 comply with rules and regulations adopted and promulgated pursuant
2 to the act, fails to meet any applicable state standard for
3 asbestos projects, or employs or permits an ~~uncertified person~~
4 unlicensed individual to work in an asbestos occupation. An
5 individual shall be subject to the reporting, investigatory, and
6 disciplinary provisions of sections 76 to 85, 106, 109 to 126, and
7 137 to 139 of this act for any of the grounds for disciplinary
8 action found in the Uniform Credentialing Act and for any violation
9 of the Asbestos Control Act or the rules and regulations adopted
10 and promulgated under the acts.

11 (3) In addition to the disciplinary actions provided for
12 in subsection (2) of this section, the department may assess a
13 civil penalty of not less than one thousand dollars nor more than
14 twenty-five thousand dollars for each offense committed by any
15 business entity licensed under the act ~~act~~ Asbestos Control Act or not
16 less than one hundred dollars nor more than five thousand dollars
17 for each offense committed by a ~~person certified~~ an individual
18 licensed under the act for violation of the act or any rule or
19 regulation adopted and promulgated pursuant thereto. Each day a
20 violation continues shall constitute a separate offense.

21 (4) Whenever the department determines to deny, refuse
22 to renew, suspend, or revoke a license, ~~certificate,~~ or approval
23 or assess a civil penalty, it shall send to the applicant,
24 or licensee, ~~or certificate holder~~ a notice setting forth the
25 particular reasons for the determination. The denial, suspension,

1 refusal to renew, revocation, or assessment of a civil penalty
2 shall become final thirty days after the mailing of the notice
3 unless the applicant, ~~certificate holder~~, or licensee gives written
4 notice to the department of a desire for a hearing. If a hearing
5 is requested, the applicant, ~~certificate holder~~, or licensee shall
6 be given a hearing before the department and shall have the right
7 to present such evidence as may be proper. On the basis of such
8 evidence, the determination shall be affirmed, modified, or set
9 aside, and a copy of such decision setting forth the findings
10 of fact and the particular reasons upon which such decision was
11 based shall be sent by certified mail to the applicant, ~~certificate~~
12 ~~holder~~, or licensee. The decision shall become a final decision
13 of the department and may be appealed, and the appeal shall be in
14 accordance with the Administrative Procedure Act.

15 (5) Hearings held pursuant to this section shall be held
16 in accordance with the Administrative Procedure Act and the rules
17 and regulations adopted and promulgated by the department under
18 such act.

19 (6) Any civil penalty assessed and unpaid under the
20 Asbestos Control Act shall constitute a debt to the State of
21 Nebraska which may be collected in the manner of a lien foreclosure
22 or sued for and recovered in any proper form of action in the name
23 of the State of Nebraska in the district court of the county in
24 which the violator resides or owns property. The department shall,
25 within thirty days of receipt, ~~transmit~~ remit any collected civil

1 penalty to the State Treasurer for ~~deposit in the permanent school~~
2 ~~fund.~~ distribution in accordance with Article VII, section 5, of
3 the Constitution of Nebraska.

4 Sec. 1258. (1) All rules and regulations adopted prior to
5 the operative date of this section under the Asbestos Control Act
6 shall continue to be effective to the extent not in conflict with
7 the changes made by this legislative bill.

8 (2) All licenses, certificates, or other forms of
9 approval issued prior to the operative date of this section in
10 accordance with the Asbestos Control Act shall remain valid as
11 issued for purposes of the changes made by this legislative bill
12 unless revoked or otherwise terminated by law.

13 (3) Any suit, action, or other proceeding, judicial or
14 administrative, which was lawfully commenced prior to the operative
15 date of this section under the Asbestos Control Act shall be
16 subject to the provisions of the act as they existed prior to the
17 operative date of this section.

18 Sec. 1259. Section 71-6317, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-6317 Sections 71-6301 to 71-6317 and sections 1254 and
21 1258 of this act shall be known and may be cited as the Asbestos
22 Control Act.

23 Sec. 1260. Section 71-6318, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-6318 Sections 71-6318 to 71-6331.01 and section 1285

1 of this act shall be known and may be cited as the Residential
2 Lead-Based Paint Professions ~~Certification~~ Practice Act.

3 Sec. 1261. Section 71-6318.01, Reissue Revised Statutes
4 of Nebraska, is amended to read:

5 71-6318.01 (1) The Residential Lead-Based Paint
6 Professions ~~Certification~~ Practice Act contains procedures and
7 requirements for the accreditation of training programs, procedures
8 and requirements for the ~~certification~~ licensure of individuals and
9 firms engaged in lead-based paint activities, and work practice
10 standards for performing lead-based paint activities. The act
11 also requires that, except as otherwise provided in the act, all
12 lead-based paint activities be performed by ~~certified~~ licensed
13 individuals and firms.

14 (2) The act applies to all individuals and firms who are
15 engaged in lead-based paint activities, except persons who perform
16 lead-based paint activities within residential dwellings that they
17 own, unless the residential dwelling is occupied by a person or
18 persons other than the owner or the owner's immediate family while
19 these activities are being performed or unless a child residing in
20 the building has been identified as having an elevated blood-lead
21 level.

22 (3) While the act establishes specific requirements for
23 performing lead-based paint activities should they be undertaken,
24 nothing in the act requires that the owner or occupant undertake
25 any particular lead-based paint activity.

1 Sec. 1262. Section 71-6319.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 71-6319.01 For purposes of the Residential Lead-Based
4 Paint Professions ~~Certification~~ Practice Act, the definitions found
5 in sections 71-6319.02 to 71-6319.40 apply.

6 Sec. 1263. Section 71-6319.02, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 71-6319.02 Abatement or abatement project means any
9 measure or set of measures designed to permanently eliminate
10 lead-based paint hazards. Abatement includes, but is not limited
11 to:

12 (1) The removal of lead-based paint and lead-contaminated
13 dust, the permanent enclosure or encapsulation of lead-based paint,
14 the replacement of lead-painted surfaces or fixtures, and the
15 removal or covering of lead-contaminated soil;

16 (2) All preparation, cleanup, disposal, and
17 post-abatement clearance testing activities associated with such
18 measures; and

19 (3) (a) Projects for which there is a written contract or
20 other documentation which provides that a firm or an individual
21 will be conducting activities in or to a residential dwelling
22 or child-occupied facility that (i) will result in the permanent
23 elimination of lead-based paint hazards or (ii) are designed to
24 permanently eliminate lead-based paint hazards and are described in
25 subdivision (1) or (2) of this section;

1 (b) Projects resulting in the permanent elimination
2 of lead-based paint hazards conducted by firms or individuals
3 ~~certified~~ licensed in accordance with the ~~department~~ Residential
4 Lead-Based Paint Professions Practice Act unless such projects are
5 excluded from the definition of abatement or abatement project
6 under this section;

7 (c) Projects resulting in the permanent elimination of
8 lead-based paint hazards conducted by firms or individuals who
9 or which, through company name or promotional literature, hold
10 themselves out to be in the business of performing lead-based paint
11 activities unless such projects are excluded from the definition of
12 abatement or abatement project under this section; or

13 (d) Projects resulting in the permanent elimination of
14 lead-based paint hazards that are conducted in response to state or
15 local abatement orders.

16 Abatement does not include renovation, remodeling,
17 landscaping, or other activities when such activities are not
18 designed to permanently eliminate lead-based paint hazards but
19 instead are designed to repair, restore, or remodel a structure
20 or dwelling even if such activities may incidentally result in
21 a reduction or elimination of lead-based paint hazards. Abatement
22 does not include interim controls, operations, and maintenance
23 activities or other measures and activities designed to temporarily
24 but not permanently reduce lead-based paint hazards.

25 Sec. 1264. Section 71-6319.04, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 71-6319.04 ~~Certified~~ Licensed abatement worker means an
3 individual who has been trained by an accredited training program
4 and ~~certified~~ licensed by the department to perform abatement
5 projects.

6 Sec. 1265. Section 71-6319.05, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 71-6319.05 ~~Certified~~ Licensed firm means a firm to which
9 the department has issued a ~~certificate of approval.~~ license.

10 Sec. 1266. Section 71-6319.06, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 71-6319.06 ~~Certified~~ Licensed inspector means an
13 individual who has been trained by an accredited training program
14 and ~~certified~~ licensed by the department to conduct inspections and
15 sample for the presence of lead in dust and soil for the purposes
16 of abatement clearance testing.

17 Sec. 1267. Section 71-6319.07, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 71-6319.07 ~~Certified~~ Licensed project designer means an
20 individual who has been trained by an accredited training program
21 and ~~certified~~ licensed by the department to prepare abatement
22 project designs, occupant protection plans, and abatement reports.

23 Sec. 1268. Section 71-6319.08, Reissue Revised Statutes
24 of Nebraska, is amended to read:

25 71-6319.08 ~~Certified~~ Licensed risk assessor means an

1 individual who has been trained by an accredited training
2 program and ~~certified~~ licensed by the department to conduct risk
3 assessments and to sample for the presence of lead in dust and soil
4 for the purposes of abatement clearance testing.

5 Sec. 1269. Section 71-6319.09, Reissue Revised Statutes
6 of Nebraska, is amended to read:

7 71-6319.09 Certified Licensed supervisor means an
8 individual who has been trained by an accredited training program
9 and ~~certified~~ licensed by the department to supervise and conduct
10 abatement projects and to prepare occupant protection plans and
11 abatement reports.

12 Sec. 1270. Section 71-6319.10, Reissue Revised Statutes
13 of Nebraska, is amended to read:

14 71-6319.10 Certified Licensed visual lead-hazard advisor
15 means an individual who has been trained by an accredited training
16 program and ~~certified~~ licensed by the department to conduct a
17 visual lead-hazard screen.

18 Sec. 1271. Section 71-6319.29, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 71-6319.29 Lead-based paint profession means one of
21 the specific types or categories of lead-based paint activities
22 identified in the Residential Lead-Based Paint Professions
23 ~~Certification~~ Practice Act for which individuals may receive
24 training from an accredited training program and become ~~certified~~
25 licensed by the department.

1 Sec. 1272. Section 71-6319.40, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 71-6319.40 Visual lead-hazard screen means a visual
4 assessment to determine the presence of deteriorated paint or other
5 potential sources of lead-based paint hazards in a residential
6 dwelling or child-occupied facility. Visual lead-hazard screen
7 includes a written report explaining the results and limitations of
8 the assessment. The written report will be provided to the person
9 requesting the inspection, the residents of the dwelling, and
10 the owner of the dwelling or child-occupied facility. A ~~certified~~
11 licensed visual lead-hazard advisor shall retain a copy of the
12 report in his or her files for three years.

13 Sec. 1273. Section 71-6320, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-6320 Except as otherwise provided in the Residential
16 Lead-Based Paint Professions ~~Certification~~ Practice Act, a firm
17 shall not engage in an abatement project unless the firm holds a
18 ~~certificate~~ license for that purpose.

19 Sec. 1274. Section 71-6321, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-6321 (1) The department shall administer the
22 Residential Lead-Based Paint Professions ~~Certification~~ Practice
23 Act.

24 (2) The department shall adopt and promulgate rules and
25 regulations necessary to carry out such act. The department shall

1 adopt state standards governing abatement projects and may adopt
2 or incorporate part or all of any federal standards in such state
3 standards so long as state standards are no less stringent than
4 federal standards.

5 (3) The department shall prescribe fees based upon the
6 following schedule:

7 (a) For an annual firm ~~certificate or certificate~~ license
8 or license renewal, not less than two hundred dollars or more than
9 five hundred dollars;

10 (b) For accreditation of a training program, not less
11 than one thousand dollars or more than two thousand five hundred
12 dollars, which fee shall include one onsite inspection if such
13 inspection is required by the department;

14 (c) For accreditation of a review course or a course on
15 Nebraska law, rules, and regulations, not less than five hundred
16 dollars or more than one thousand dollars, which fee shall include
17 one onsite inspection if such inspection is required by the
18 department;

19 (d) For onsite inspections other than initial
20 inspections, not less than one hundred fifty dollars or more than
21 two hundred fifty dollars. Such fees shall not be assessed for more
22 than three onsite inspections per year during the period an actual
23 abatement project is in progress; and

24 (e) For a project review of each abatement project of a
25 ~~certified~~ licensed firm, not less than two hundred dollars or more

1 than five hundred dollars.

2 Any ~~such~~ business applicant whose application is rejected
3 shall be allowed the return of the application fee, except that an
4 administrative charge of one hundred dollars for a firm ~~certificate~~
5 license and for accreditation of a training program shall be
6 retained by the department.

7 All fees shall be based on the costs of administering
8 the act. In addition to the fees prescribed in this section, the
9 department may charge and receive the actual costs for board, room,
10 and travel by employees in excess of three hundred dollars, which
11 costs shall not exceed the amounts allowable in sections 81-1174
12 to 81-1177. All such fees collected by the department shall be
13 remitted to the State Treasurer for credit to the Department of
14 Health and Human Services Regulation and Licensure Cash Fund. Money
15 credited to the fund pursuant to this section shall be used by the
16 department for the purpose of administering the act.

17 (4) At least once a year during the continuation of an
18 abatement project the department shall conduct an onsite inspection
19 of each ~~certified~~ licensed firm's procedures for performing
20 abatement projects.

21 (5) The department may enter into agreements or contracts
22 with public agencies to conduct any inspections required under the
23 act if such agencies have the appropriate ~~certification~~ licensure
24 or accreditation as described in the act.

25 (6) The department shall adopt and promulgate rules and

1 regulations defining work practices for abatement projects, for
2 the ~~certification~~ licensure of lead-based paint professions, for
3 the accreditation of training programs, for the accreditation of
4 training program providers, for the dissemination of prerenovation
5 information to homeowners and occupants, for the facilitation
6 of compliance with federal lead-based paint hazard control grant
7 programs, and for the implementation of lead-based paint compliance
8 monitoring and enforcement activities. The department may provide
9 for alternatives to specific work practices when the health,
10 safety, and welfare of all classes of lead-based paint professions
11 and the general public are adequately protected.

12 (7) The department may apply for and receive funds from
13 the federal government and any other public or private entity
14 for the purposes of administering the act. Any funds applied for,
15 received, or used by the department or any political subdivision
16 from the federal government or any public entity may be used only
17 to abate lead-based paint hazards and for the administration of
18 lead-based paint programs which address health and environmental
19 hazards caused by lead-based paint.

20 ~~(8) The department shall establish and collect~~
21 ~~certification fees and recertification fees as provided in~~
22 ~~section 71-162 for individuals certified under section 71-6326.~~
23 ~~The department shall adopt and promulgate rules and regulations~~
24 ~~to establish continuing competency requirements for persons~~
25 ~~certified under the act. Continuing education is sufficient to~~

1 ~~meet continuing competency requirements. The requirements may also~~
2 ~~include, but not be limited to, one or more of the continuing~~
3 ~~competency activities listed in section 71-161.09 which a certified~~
4 ~~person may select as an alternative to continuing education.~~

5 Sec. 1275. Section 71-6322, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-6322 To qualify for a ~~certificate,~~ license, a firm
8 shall:

9 (1) Own or demonstrate immediate and continuing access to
10 and maintain in operable condition modern and effective equipment,
11 as prescribed by the department, which is designed for use in
12 abatement projects;

13 (2) Ensure that each employee or agent of the firm who
14 will participate in an abatement project is ~~certified~~ licensed
15 as required by the Residential Lead-Based Paint Professions
16 ~~Certification~~ Practice Act;

17 (3) Demonstrate to the satisfaction of the department
18 that the firm is capable of complying with all applicable
19 requirements, procedures, and standards pertaining to abatement
20 projects; and

21 (4) Meet any other standards which the department may
22 deem necessary to protect the health, safety, and welfare of all
23 classes of lead-based paint professions and the general public.

24 Sec. 1276. Section 71-6323, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-6323 (1) To apply for a ~~certificate~~, license, a
2 firm shall submit an application to the department in the form
3 required by the department and shall pay the fee prescribed by the
4 department.

5 (2) The application shall include, but not be limited to:

6 (a) The name, address, and nature of the firm;

7 (b) A statement that all individuals who will engage
8 in any abatement project for the ~~certificate holder~~ firm will be
9 ~~certified~~ licensed as required by the Residential Lead-Based Paint
10 Professions ~~Certification~~ Practice Act;

11 (c) A description of the removal, enclosure,
12 encapsulation, demolition, dismantling, and maintenance methods
13 that the firm will use;

14 (d) A description of the procedures that the firm will
15 use for handling lead-containing waste;

16 (e) A description of the procedures that the firm will
17 use in cleaning up the abatement project;

18 (f) The signature of the chief executive officer of the
19 firm or his or her designee; and

20 (g) Such other information as may be necessary for the
21 efficient administration and enforcement of the act and for the
22 protection of the health, safety, and welfare of all classes of
23 lead-based paint professions and the general public.

24 (3) A firm holding a certificate on December 1, 2008,
25 shall be deemed to be holding a license under the Residential

1 Lead-Based Paint Professions Practice Act and the Uniform
2 Credentialing Act on such date. The certificate holder may continue
3 to practice under such certificate as a license in accordance with
4 such acts until the certificate would have expired under its terms.

5 Sec. 1277. Section 71-6326, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-6326 (1) An individual shall not be eligible to work
8 on an abatement project unless the individual holds a ~~certificate~~
9 license issued by the department.

10 (2) The department shall issue the following classes
11 of ~~certificates~~ licenses: Worker, supervisor, inspector, risk
12 assessor, visual lead-hazard advisor, elevated blood-lead level
13 inspector, and project designer. To qualify for a ~~certificate~~
14 license of a particular class, an individual shall have (a)
15 successfully completed a training course approved or administered
16 by the department, (b) passed an examination approved or
17 administered by the department with at least the minimum score
18 prescribed by the department, and (c) for the classes of worker and
19 supervisor, been examined by a physician within the preceding year
20 and declared by the physician to be physically capable of working
21 while wearing a respirator.

22 (3) An individual holding such a certificate on December
23 1, 2008, shall be deemed to be holding a license under the
24 Residential Lead-Based Paint Professions Practice Act and the
25 Uniform Credentialing Act on such date. The certificate holder

1 may continue to practice under such certificate as a license in
2 accordance with such acts until the certificate would have expired
3 under its terms.

4 ~~(3) A certificate or renewal certificate shall be valid~~
5 ~~for three years from the date of issuance. To qualify for a renewal~~
6 ~~certificate, the applicant shall meet the requirements of section~~
7 ~~71-6327.~~

8 ~~(4) Applications for certificates and renewal~~
9 ~~certificates shall be submitted to the department on forms~~
10 ~~prescribed by the department and shall be accompanied by the~~
11 ~~prescribed fee.~~

12 Sec. 1278. Section 71-6327, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-6327 Any individual certified (1) An applicant for
15 a license in any of the lead-based paint professions prescribed
16 in the Residential Lead-Based Paint Professions Certification Act,
17 as a condition for certificate renewal, shall complete continuing
18 competency activities as required by the department pursuant to
19 section 71-6321. Practice Act shall be made as provided in the
20 Uniform Credentialing Act. An individual shall be credentialed in
21 the same manner as an individual under subsection (1) of section 21
22 of this act and shall be subject to the disciplinary provisions of
23 the Uniform Credentialing Act as provided in section 71-6331. The
24 department shall establish and collect license and renewal fees as
25 provided in sections 51 to 57 of this act.

1 (2) The department shall adopt and promulgate rules and
2 regulations to establish the continuing competency requirements
3 pursuant to the Uniform Credentialing Act. Continuing education
4 is sufficient to meet continuing competency requirements. The
5 requirements may also include, but not be limited to, one or
6 more of the continuing competency activities listed in section 45
7 of this act which a licensee may select as an alternative to
8 continuing education.

9 Sec. 1279. Section 71-6328, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-6328 No state agency, county, city, village, school
12 district, or other political subdivision shall accept a bid in
13 connection with any abatement project from a firm which does not
14 hold a ~~certificate~~ license from the department at the time the bid
15 is submitted.

16 Sec. 1280. Section 71-6328.01, Reissue Revised Statutes
17 of Nebraska, is amended to read:

18 71-6328.01 Any individual or firm who or which has been
19 issued a license, a certificate, or accreditation for training
20 in another state which (1) has a licensure, certification,
21 or accreditation program approved by the federal Environmental
22 Protection Agency, (2) has licensure, accreditation, certification,
23 education, and experience requirements substantially equal to
24 or greater than those adopted by this state, and (3) grants
25 equal licensure, certification, and accreditation privileges to

1 individuals and firms ~~certified~~ licensed or accredited and residing
2 in this state may be issued an equivalent ~~certificate~~ license or
3 accreditation in Nebraska upon terms and conditions determined by
4 the department. The terms and conditions may reduce the time period
5 ~~established under subsection (3) of section 71-6326~~ the license is
6 valid and the fee requirements.

7 Sec. 1281. Section 71-6329, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-6329 (1) A firm which engages in an abatement project
10 without a valid ~~certificate~~ license as provided in the Residential
11 Lead-Based Paint Professions ~~Certification~~ Practice Act shall be
12 assessed a civil penalty of not less than five thousand dollars
13 nor more than twenty-five thousand dollars for the first offense
14 and not less than twenty-five thousand dollars nor more than one
15 hundred thousand dollars for a second or subsequent offense. Each
16 day a violation continues shall constitute a separate offense.

17 (2) An individual who engages in a lead-based paint
18 profession without a valid ~~certificate~~ license shall be assessed a
19 civil penalty of not less than five hundred dollars nor more than
20 five thousand dollars for the first offense and not less than one
21 thousand dollars nor more than fifteen thousand dollars for the
22 second or subsequent offense. Each day a violation continues shall
23 constitute a separate offense.

24 (3) Any firm which knowingly engages in an abatement
25 project but which uses employees who do not hold ~~certificates~~

1 licenses shall be assessed a civil penalty of not less than five
2 thousand dollars nor more than twenty-five thousand dollars for the
3 first offense and not less than twenty-five thousand dollars nor
4 more than one hundred thousand dollars for a second or subsequent
5 offense. Each day a violation continues shall constitute a separate
6 offense.

7 (4) Any firm conducting an accredited training program
8 which knowingly engages in issuing fraudulent ~~certificates~~ licenses
9 or fails to conduct its training program in accordance with
10 its accreditation shall, in addition to having its accreditation
11 revoked, pay a civil penalty of not less than five thousand dollars
12 nor more than twenty-five thousand dollars.

13 (5) The civil penalties prescribed in subsections (1),
14 (2), (3), and (4) of this section shall be assessed in a civil
15 action brought for such purpose by the Attorney General or the
16 county attorney in the district court of the county in which the
17 violation occurred.

18 (6) An individual or firm which has been assessed a
19 civil penalty under this section and subsequently engages in
20 an abatement project or a lead-based paint profession without
21 a valid ~~certificate~~ license or using employees who do not hold
22 ~~certificates,~~ licenses, conducts training programs without being
23 accredited by the department, or issues fraudulent ~~certificates,~~
24 licenses, except as otherwise provided in the act:

25 (a) For a first offense, shall be guilty of a Class I

1 misdemeanor; and

2 (b) For a second or subsequent offense, shall be guilty
3 of a Class IV felony.

4 Sec. 1282. Section 71-6330, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-6330 Upon the request of the department, the Attorney
7 General or appropriate county attorney shall institute without
8 delay an action in the name of the state for proceedings
9 appropriate against any individual or firm to restrain or prevent
10 any violation of the Residential Lead-Based Paint Professions
11 ~~Certification~~ Practice Act or of any rules and regulations adopted
12 and promulgated pursuant to the act.

13 Sec. 1283. Section 71-6331, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-6331 (1) An application or a ~~certificate~~ license
16 under the Residential Lead-Based Paint Professions ~~Certification~~
17 Practice Act may be denied, refused renewal, suspended, or revoked
18 if the applicant or ~~certificate holder~~ licensee violates any of
19 the provisions of the act, fraudulently or deceptively obtains
20 or attempts to obtain a ~~certificate,~~ license, fails at any time
21 to meet the qualifications for a ~~certificate,~~ license, fails to
22 comply with rules and regulations adopted and promulgated pursuant
23 to the act, fails to meet any applicable state standard for
24 abatement projects, or employs or permits an ~~uncertified~~ unlicensed
25 individual to work in a lead-based paint profession. An individual

1 shall be subject to the reporting, investigatory, and disciplinary
2 provisions of sections 76 to 85, 106, 109 to 126, and 137 to 139
3 of this act for any of the grounds for disciplinary action found
4 in the Uniform Credentialing Act and for any violation of the
5 Residential Lead-Based Paint Professions Practice Act or the rules
6 and regulations adopted and promulgated under the acts.

7 (2) In addition to the disciplinary actions provided for
8 in subsection (1) of this section, the department may assess a
9 civil penalty of not less than one thousand dollars nor more than
10 three thousand dollars for each offense committed by any firm
11 ~~certified~~ licensed under the act ~~or not less than one hundred~~
12 ~~dollars nor more than five thousand dollars for each offense~~
13 ~~committed by an individual certified under the act~~ for violation of
14 the act or any rule or regulation adopted and promulgated pursuant
15 thereto. Each day a violation continues shall constitute a separate
16 offense.

17 (3) Whenever the department determines to deny, refuse
18 to renew, suspend, or revoke a ~~certificate~~ firm license or assess
19 a civil penalty on a firm, it shall send to the applicant or
20 ~~certificate holder~~ licensee a notice setting forth the particular
21 reasons for the determination. The denial, suspension, refusal
22 to renew, revocation, or assessment of a civil penalty shall
23 become final thirty days after the mailing of the notice unless
24 the applicant or ~~certificate holder~~ licensee gives written notice
25 to the department of a desire for a hearing. If a hearing is

1 requested, the applicant or ~~certificate holder~~ licensee shall be
2 given a hearing before the department and shall have the right
3 to present such evidence as may be proper. On the basis of such
4 evidence, the determination shall be affirmed, modified, or set
5 aside, and a copy of such decision setting forth the findings of
6 fact and the particular reasons upon which such decision was based
7 shall be sent by certified mail to the applicant or ~~certificate~~
8 ~~holder.~~ licensee. The decision shall become a final decision of the
9 department and may be appealed. The appeal shall be in accordance
10 with the Administrative Procedure Act.

11 (4) Hearings held pursuant to this section shall be held
12 in accordance with the Administrative Procedure Act.

13 (5) Any civil penalty assessed and unpaid under the
14 Residential Lead-Based Paint Professions Certification Practice Act
15 shall constitute a debt to the State of Nebraska which may be
16 collected in the manner of a lien foreclosure or sued for and
17 recovered in any proper form of action in the name of the State of
18 Nebraska in the district court of the county in which the violator
19 resides or owns property. The department shall, within thirty
20 days of receipt, remit any collected civil penalty to the State
21 Treasurer for ~~credit to the permanent school fund.~~ distribution
22 in accordance with Article VII, section 5, of the Constitution of
23 Nebraska.

24 Sec. 1284. Section 71-6331.01, Reissue Revised Statutes
25 of Nebraska, is amended to read:

1 71-6331.01 Sections 25-21,254 to 25-21,264 do not apply
2 to the Residential Lead-Based Paint Professions ~~Certification~~
3 Practice Act.

4 Sec. 1285. (1) All rules and regulations adopted prior to
5 the operative date of this section under the Residential Lead-Based
6 Paint Professions Certification Act shall continue to be effective
7 under the Residential Lead-Based Paint Professions Practice Act
8 to the extent not in conflict with the changes made by this
9 legislative bill.

10 (2) All licenses, certificates, or other forms of
11 approval issued prior to the operative date of this section
12 in accordance with the Residential Lead-Based Paint Professions
13 Certification Act shall remain valid as issued for purposes of
14 the changes made by this legislative bill in the Residential
15 Lead-Based Paint Professions Practice Act unless revoked or
16 otherwise terminated by law.

17 (3) Any suit, action, or other proceeding, judicial
18 or administrative, which was lawfully commenced prior to the
19 operative date of this section under the Residential Lead-Based
20 Paint Professions Certification Act shall be subject to the
21 provisions of the act as they existed prior to the operative
22 date of this section.

23 Sec. 1286. Section 71-6721, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-6721 For purposes of the Medication Aide Act:

1 (1) Ability to take medications independently means the
2 individual is physically capable of (a) the act of taking or
3 applying a dose of a medication, (b) taking or applying the
4 medication according to a specific prescription or recommended
5 protocol, and (c) observing and monitoring himself or herself for
6 desired effect, side effects, interactions, and contraindications
7 of the medication and taking appropriate actions based upon those
8 observations;

9 (2) Administration of medication includes, but is not
10 limited to (a) providing medications for another person according
11 to the five rights, (b) recording medication provision, and (c)
12 observing, monitoring, reporting, and otherwise taking appropriate
13 actions regarding desired effects, side effects, interactions, and
14 contraindications associated with the medication;

15 (3) Caretaker means a parent, foster parent, family
16 member, friend, or legal guardian who provides care for an
17 individual;

18 (4) Child care facility means an entity or a person
19 licensed under the Child Care Licensing Act;

20 (5) Competent individual means an adult who is the
21 ultimate recipient of medication and who has the capability and
22 capacity to make an informed decision about taking medications;

23 (6) Department means the Department of Health and Human
24 Services Regulation and Licensure;

25 (7) Direction and monitoring means the acceptance

1 of responsibility for observing and taking appropriate action
2 regarding any desired effects, side effects, interactions, and
3 contraindications associated with the medication by a (a) competent
4 individual for himself or herself, (b) caretaker, or (c) licensed
5 health care professional;

6 (8) Facility means a health care facility or health care
7 service as defined in section 71-413 or 71-415 or an entity or
8 person certified by the Department of Health and Human Services
9 Regulation and Licensure or the Department of Health and Human
10 Services Finance and Support to provide home and community-based
11 services;

12 (9) Five rights means getting the right drug to the right
13 recipient in the right dosage by the right route at the right time;

14 (10) Health care professional means an individual for
15 whom administration of medication is included in the scope of
16 practice;

17 (11) Home means the residence of an individual but does
18 not include any facility or school;

19 (12) Intermediate care facility for the mentally retarded
20 has the definition found in section 71-421;

21 (13) Informed decision means a decision made knowingly,
22 based upon capacity to process information about choices and
23 consequences, and made voluntarily;

24 (14) Medication means any prescription or nonprescription
25 drug intended for treatment or prevention of disease or to affect

1 body function in humans;

2 (15) Medication aide means an individual who is listed on
3 the medication aide registry operated by the Department of Health
4 and Human Services Regulation and Licensure;

5 (16) Nonprescription drug has the definition found in
6 section ~~71-1,142,~~ 925 of this act;

7 (17) Nursing home means any facility or a distinct part
8 of any facility that provides care as defined in sections 71-420,
9 71-422, 71-424, and 71-429;

10 (18) Prescription drug has the definition of prescription
11 drug or device as found in section ~~71-1,142,~~ 937 of this act;

12 (19) Provision of medication means the component of the
13 administration of medication that includes giving or applying a
14 dose of a medication to an individual and includes helping an
15 individual in giving or applying such medication to himself or
16 herself;

17 (20) PRN means an administration scheme in which a
18 medication is not routine, is taken as needed, and requires
19 assessment for need and effectiveness;

20 (21) Recipient means a person who is receiving
21 medication;

22 (22) Routine, with reference to medication, means the
23 frequency of administration, amount, strength, and method are
24 specifically fixed; and

25 (23) School means an entity or person meeting the

1 requirements for a school set by Chapter 79.

2 Sec. 1287. Section 71-6726, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-6726 (1) To register as a medication aide, an
5 individual shall (a) have successfully completed the requirements
6 in section 71-6725, (b) be at least eighteen years of age, (c)
7 be of good moral character, (d) file an application with the
8 department, and (e) pay the applicable fee.

9 (2) An applicant or medication aide shall report to the
10 department, in writing, any conviction for a felony or misdemeanor.
11 A conviction is not a disqualification for placement on the
12 registry unless it relates to the standards identified in ~~such~~
13 section 71-6725 or it reflects on the moral character of the
14 applicant or medication aide.

15 (3) An applicant or medication aide may report any pardon
16 or setting aside of a conviction to the department. If a pardon or
17 setting aside has been obtained, the conviction for which it was
18 obtained shall not be maintained on the Medication Aide Registry.

19 Sec. 1288. Section 71-6727, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-6727 (1) The department shall list each medication
22 aide registration in the Medication Aide Registry as
23 a Medication ~~Aide-Nursing Home,~~ Aide-40-Hour, Medication
24 ~~Aide-Intermediate Care Facility for the Mentally Retarded,~~
25 ~~Medication Aide-Assisted-Living,~~ Aide-20-Hour, or Medication Aide.

1 A listing in the registry shall be valid for the term of the
2 registration and upon renewal unless such listing is refused
3 renewal or is removed as provided in section 71-6730.

4 (2) The registry shall contain the following information
5 on each individual who meets the conditions in section 71-6726: (a)
6 The individual's full name; (b) information necessary to identify
7 individuals, including those qualified to provide medications
8 in nursing homes, intermediate care facilities for the mentally
9 retarded, or assisted-living facilities; (c) any conviction of a
10 felony or misdemeanor reported to the department; and (d) other
11 information as the department may require by rule and regulation.

12 Sec. 1289. Section 71-6728, Reissue Revised Statutes of
13 Nebraska, as amended by section 2, Legislative Bill 283, One
14 Hundredth Legislature, First Session, 2007, is amended to read:

15 71-6728 Registration as a medication aide shall be
16 renewed biennially based upon competency. The department may
17 prescribe by rule and regulation how a medication aide can show
18 competency for purposes of renewal. Payment of the applicable fee
19 shall be a condition of renewal. After the effective date of this
20 act, any registration that is renewed shall expire two years after
21 the date the registration would have expired if it had not been
22 renewed. A medication aide who provides medication aide services
23 prior to registration or after the date the registration expires
24 shall be subject to the civil penalty prescribed in section 98 of
25 this act.

1 Sec. 1290. Section 71-6734, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6734 The department shall establish and collect fees
4 for credentialing activities under the Medication Aide Act as
5 provided in ~~section 71-162~~, sections 51 to 57 of this act.

6 Sec. 1291. Section 71-6742, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-6742 Medication aides are eligible to participate in
9 the Licensee Assistance Program as prescribed by section 75 of
10 this act. ~~Any person who, on July 1, 1999, is approved by the~~
11 ~~department to act as a care staff member or medication assistant~~
12 ~~shall automatically and without payment of any fee be registered as~~
13 ~~a medication aide.~~

14 Sec. 1292. Section 71-7001, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-7001 For purposes of sections 71-7001 to 71-7013:

17 (1) Department means the Department of Health and Human
18 Services;

19 (2) Mammogram means the X-ray resulting from mammography;

20 (3) Mammography means radiological examination of the
21 breast for the purpose of obtaining a mammogram which enables a
22 physician to assess the presence, size, location, and extent of
23 cancerous or potentially cancerous tissue;

24 (4) Mammogram supplier means a public, private,
25 for-profit, or not-for-profit agency or health care facility that

1 provides mammography;

2 (5) Screening mammogram means the X-ray resulting from
3 screening mammography;

4 (6) Screening mammography means radiological examination
5 of the breast of asymptomatic women for the early detection of
6 breast cancer, which examination includes (a) a cranio-caudal and
7 a medial lateral oblique view of each breast and (b) a licensed
8 radiologist's interpretation of the results of the procedure.
9 Screening mammography does not include diagnostic mammography,
10 additional projections required for lesion definition, breast
11 ultrasound, or any breast interventional procedure;

12 (7) Medical radiographer means a person licensed pursuant
13 to ~~subsection (1) of section 71-3515.01,~~ section 653 of this
14 act, other than a licensed practitioner or a licensed physician
15 assistant, who practices medical radiography under the supervision
16 of a licensed practitioner;

17 (8) False negative result means a mammogram which
18 indicates no possible cancer when a cancer exists;

19 (9) False positive result means a mammogram which
20 indicates a possible cancer when none exists;

21 (10) Professional component means the interpretation
22 of a screening mammogram and a written report regarding the
23 interpretation provided by a mammogram supplier; and

24 (11) Technical component means a screening mammogram and
25 all other services provided by a mammogram supplier.

1 Sec. 1293. Section 71-7427, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 71-7427 Sections 71-7427 to 71-7463 and sections 1297 to
4 1300 of this act shall be known and may be cited as the Wholesale
5 Drug Distributor Licensing Act.

6 Sec. 1294. Section 71-7436, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-7436 Emergency medical reasons means the alleviation
9 of a temporary shortage by transfers of prescription drugs between
10 any of the following: (1) Holders of pharmacy licenses, (2) health
11 care practitioner facilities as defined in section 71-414, (3)
12 hospitals as defined in section 71-419, and (4) practitioners as
13 defined in section ~~71-1,142-~~ 934 of this act.

14 Sec. 1295. Section 71-7454, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-7454 (1) No wholesale drug distributor, manufacturer,
17 or pharmacy shall knowingly purchase or receive any prescription
18 drug from any source other than a person or entity licensed under
19 the Wholesale Drug Distributor Licensing Act except transfers for
20 emergency medical reasons, the gross dollar value of which shall
21 not exceed five percent of the total prescription drug sales
22 revenue of the transferor or transferee holder of a pharmacy
23 license or practitioner as defined in section ~~71-1,142~~ 934 of this
24 act during the immediately preceding calendar year, and except as
25 otherwise provided in the act.

1 (2) A wholesale drug distributor may receive returns or
2 exchanges of prescription drugs from a pharmacy, chain pharmacy
3 warehouse, health care practitioner facility as defined in section
4 71-414, or hospital as defined in section 71-419 pursuant to
5 the terms and conditions agreed upon between such wholesale
6 drug distributor and such pharmacy, chain pharmacy warehouse,
7 health care practitioner facility, or hospital. Such returns and
8 exchanges shall not be subject to sections 71-7455 to 71-7457. A
9 wholesale drug distributor shall not receive from a pharmacy, chain
10 pharmacy warehouse, health care practitioner facility, or hospital
11 an amount or quantity of a prescription drug greater than the
12 amount or quantity that was originally sold by the wholesale drug
13 distributor to such pharmacy, chain pharmacy warehouse, health care
14 practitioner facility, or hospital.

15 (3) A manufacturer or wholesale drug distributor shall
16 furnish prescription drugs only to persons licensed by the
17 department and shall verify such licensure before furnishing
18 prescription drugs to a person not known to the manufacturer
19 or wholesale drug distributor.

20 (4) Prescription drugs furnished by a manufacturer or
21 wholesale drug distributor shall be delivered only to the premises
22 listed on the license, except that a manufacturer or wholesale drug
23 distributor may furnish prescription drugs to a person licensed
24 by the department or his or her agent at the premises of the
25 manufacturer or wholesale drug distributor if:

1 (a) The identity and authorization of the recipient is
2 properly established; and

3 (b) This method of receipt is employed only to meet
4 the prescription drug needs of a particular patient of the person
5 licensed by the department.

6 (5) Prescription drugs may be furnished to a hospital
7 pharmacy receiving area. Receipt of such drugs shall be
8 acknowledged by written receipt signed by a pharmacist or other
9 authorized personnel. The receipt shall contain the time of
10 delivery and the type and quantity of the prescription drug
11 received. Any discrepancy between the signed receipt and the type
12 and quantity of prescription drug actually received shall be
13 reported by the receiving authorized pharmacy personnel to the
14 delivering manufacturer or wholesale drug distributor by the next
15 business day after the delivery to the pharmacy receiving area.

16 (6) A manufacturer or wholesale drug distributor shall
17 only accept payment or allow the use of credit to establish an
18 account for the purchase of prescription drugs from the owner
19 or owners of record, the chief executive officer, or the chief
20 financial officer listed on the license of a person or entity
21 legally authorized to receive prescription drugs. Any account
22 established for the purchase of prescription drugs shall bear the
23 name of such licensee.

24 Sec. 1296. Section 71-7457, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-7457 (1) A wholesale drug distributor license may
2 be denied, refused renewal, suspended, limited, or revoked by
3 the Director of Regulation and Licensure when the director finds
4 that the applicant or licensee has violated any provisions of
5 the Wholesale Drug Distributor Licensing Act or of the rules and
6 regulations adopted and promulgated under the act or has committed
7 any acts or offenses set forth in section ~~71-147, 71-148, or 78~~
8 or 79 of this act or section 71-7459. All actions and proceedings
9 shall be carried out as specified in sections ~~71-147 to 71-161.19.~~
10 77 to 115 of this act.

11 (2) For purposes of this section, applicant or licensee
12 includes, but is not limited to, the board of directors, chief
13 executive officer, and other officers of the applicant or the
14 entity to which the license is issued and the manager of each site
15 if more than one site is located in this state.

16 Sec. 1297. Every wholesale drug distributor licensed
17 under the Wholesale Drug Distributor Licensing Act shall be subject
18 to and comply with sections 124 to 126 of this act relating to
19 reporting and investigations.

20 Sec. 1298. (1) A health care facility licensed under the
21 Health Care Facility Licensure Act or a peer review organization
22 or professional association relating to a profession regulated
23 under the Wholesale Drug Distributor Licensing Act shall report
24 to the department, on a form and in the manner specified by
25 the department, any facts known to the facility, organization, or

1 association, including, but not limited to, the identity of the
2 credential holder and consumer, when the facility, organization, or
3 association:

4 (a) Has made payment due to adverse judgment, settlement,
5 or award of a professional liability claim against it or a
6 licensee, including settlements made prior to suit, arising out of
7 the acts or omissions of the licensee; or

8 (b) Takes action adversely affecting the privileges
9 or membership of a licensee in such facility, organization, or
10 association due to alleged incompetence, professional negligence,
11 unprofessional conduct, or physical, mental, or chemical
12 impairment.

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

15 (2) A report made to the department under this section
16 shall be confidential. The facility, organization, association, or
17 person making such report shall be completely immune from criminal
18 or civil liability of any nature, whether direct or derivative,
19 for filing a report or for disclosure of documents, records, or
20 other information to the department under this section. Nothing in
21 this subsection shall be construed to require production of records
22 protected by section 25-12,123, 71-2048, or 71-7903 or patient
23 safety work product under the Patient Safety Improvement Act except
24 as otherwise provided in any of such sections or such act.

25 (3) Any health care facility, peer review organization,

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

8 (4) For purposes of this section, the department shall
9 accept reports made to it under the Nebraska Hospital-Medical
10 Liability Act or in accordance with national practitioner data bank
11 requirements of the federal Health Care Quality Improvement Act of
12 1986, as the act existed on January 1, 2007, and may require a
13 supplemental report to the extent such reports do not contain the
14 information required by the department.

15 Sec. 1299. (1) Unless such knowledge or information
16 is based on confidential medical records protected by the
17 confidentiality provisions of the federal Public Health Services
18 Act, 42 U.S.C. 290dd-2, and federal administrative rules and
19 regulations, as such act and rules and regulations existed on
20 January 1, 2007:

21 (a) Any insurer having knowledge of any violation of any
22 provision of the Wholesale Drug Distributor Licensing Act governing
23 the profession of the person being reported whether or not such
24 person is licensed shall report the facts of such violation as
25 known to such insurer to the department; and

1 (b) All insurers shall cooperate with the department and
2 provide such information as requested by the department concerning
3 any possible violations by any person required to be licensed
4 whether or not such person is licensed.

5 (2) Such reporting shall be done on a form and in the
6 manner specified pursuant to sections 130 and 131 of this act. Such
7 reports shall be subject to sections 132 to 136 of this act.

8 Sec. 1300. The clerk of any county or district court
9 in this state shall report to the department the conviction
10 of any person licensed by the department under the Wholesale
11 Drug Distributor Licensing Act of any felony or of any
12 misdemeanor involving the use, sale, distribution, administration,
13 or dispensing of a controlled substance, alcohol or chemical
14 impairment, or substance abuse and shall also report a judgment
15 against any such licensee arising out of a claim of professional
16 liability. The Attorney General or city or county prosecutor
17 prosecuting any such criminal action and plaintiff in any such
18 civil action shall provide the court with information concerning
19 the license of the defendant or party. Notice to the department
20 shall be filed within thirty days after the date of conviction or
21 judgment in a manner agreed to by the Director of Public Health of
22 the Division of Public Health and the State Court Administrator.

23 Sec. 1301. Section 71-7702, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-7702 For purposes of the Health Care Facility-Provider

1 Cooperation Act:

2 (1) Community planning shall mean a plan which identifies
3 (a) health-care-related resources, facilities, and services within
4 the community, (b) the health care needs of the community, (c)
5 gaps in services, (d) duplication of services, and (e) ways to meet
6 health care needs;

7 (2) Cooperative agreement shall mean an agreement among
8 two or more health care facilities or other providers for
9 the sharing, allocation, or referral of patients, personnel,
10 instructional programs, equipment, support services and facilities,
11 or medical, diagnostic, or laboratory facilities or procedures or
12 other services traditionally offered or purchased by health care
13 facilities or other providers;

14 (3) Department shall mean the Department of Health and
15 Human Services Regulation and Licensure;

16 (4) Health care facility shall mean:

17 (a) Any facility required to be licensed under the Health
18 Care Facility Licensure Act or, if in another state, licensed in
19 such state; and

20 (b) Any parent of a health care facility, health
21 care facility subsidiary, or health care facility affiliate that
22 provides medical or medically related diagnostic and laboratory
23 services or engages in ancillary activities supporting those
24 services; and

25 (5) Provider shall mean any person licensed to provide

1 health care services under ~~Chapter 71~~ the Uniform Credentialing Act
2 and engaged in the practice of medicine and surgery, osteopathic
3 medicine, pharmacy, optometry, podiatry, physical therapy, or
4 nursing.

5 Sec. 1302. Section 71-7901, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-7901 Any health clinic as defined in section 71-416
8 and any other organization or association of health practitioners
9 or providers licensed pursuant to ~~Chapter 71~~ the Uniform
10 Credentialing Act may cause a peer review committee to be formed
11 and operated or may contract with an outside peer review committee
12 for the purpose of reviewing, from time to time, the medical care
13 provided by such health clinic, organization, or association and
14 for assisting individual practitioners or providers practicing in
15 such clinics, organizations, or associations in maintaining and
16 providing a high standard of medical care.

17 Sec. 1303. Section 71-8228, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-8228 Regional medical director means a physician
20 licensed under the Uniform ~~Licensing Law~~ Credentialing Act who
21 shall report to the Director of Regulation and Licensure and carry
22 out the regional plan for his or her region.

23 Sec. 1304. Section 71-8231, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-8231 State trauma medical director means a physician

1 licensed under the Uniform ~~Licensing Law~~ Credentialing Act who
2 reports to the Director of Regulation and Licensure and carries out
3 duties under the Statewide Trauma System Act.

4 Sec. 1305. Section 71-8253, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-8253 (1) If there are conflicts between the Statewide
7 Trauma System Act and the Emergency Medical Services Practice
8 Act pertaining to out-of-hospital emergency medical services, the
9 Emergency Medical Services Practice Act shall control.

10 (2) Nothing in the Statewide Trauma System Act shall
11 limit a patient's right to choose the physician, hospital,
12 facility, rehabilitation center, specialty level burn or pediatric
13 trauma center, or other provider of health care services.

14 Sec. 1306. Section 71-8402, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-8402 For purposes of sections 71-8401 to 71-8407:

17 (1) Medical records means a provider's record of a
18 patient's health history and treatment rendered;

19 (2) Mental health medical records means medical records
20 or parts thereof created by or under the direction or supervision
21 of a licensed psychiatrist, a licensed psychologist, or a mental
22 health practitioner licensed or certified pursuant to ~~sections~~
23 ~~71-1,295 to 71-1,338,~~ the Mental Health Practice Act;

24 (3) Patient includes a patient or former patient;

25 (4) Patient request or request of a patient includes the

1 request of a patient's guardian or other authorized representative;
2 and

3 (5) Provider means a physician, psychologist,
4 chiropractor, dentist, hospital, clinic, and any other licensed or
5 certified health care practitioner or entity.

6 Sec. 1307. Section 71-8709, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-8709 Provider means a person that is either:

9 (1) A facility licensed under the Health Care Facility
10 Licensure Act; or

11 (2) A health care professional licensed under the ~~Nurse~~
12 ~~Practice Act or the Uniform Licensing Law.~~ Uniform Credentialing
13 Act.

14 Sec. 1308. Section 77-2704.09, Revised Statutes
15 Cumulative Supplement, 2006, is amended to read:

16 77-2704.09 (1) Sales and use taxes shall not be imposed
17 on the gross receipts from the sale, lease, or rental of and the
18 storage, use, or other consumption in this state of insulin and
19 the following when sold for a patient's use under a prescription
20 and which are of the type eligible for coverage under the medical
21 assistance program established pursuant to the Medical Assistance
22 Act: Drugs, not including over-the-counter drugs; durable medical
23 equipment; home medical supplies; prosthetic devices; oxygen;
24 oxygen equipment; and mobility enhancing equipment.

25 (2) For purposes of this section:

1 (a) Drug means a compound, substance, preparation, and
2 component of a compound, substance, or preparation, other than food
3 and food ingredients, dietary supplements, or alcoholic beverages:

4 (i) Recognized in the official United States
5 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United
6 States, or official National Formulary, and any supplement to any
7 of them;

8 (ii) Intended for use in the diagnosis, cure, mitigation,
9 treatment, or prevention of disease; or

10 (iii) Intended to affect the structure or any function of
11 the body;

12 (b) Durable medical equipment means equipment which can
13 withstand repeated use, is primarily and customarily used to serve
14 a medical purpose, generally is not useful to a person in the
15 absence of illness or injury, is appropriate for use in the home,
16 and is not worn in or on the body. Durable medical equipment
17 includes repair and replacement parts for such equipment;

18 (c) Home medical supplies means supplies primarily and
19 customarily used to serve a medical purpose which are appropriate
20 for use in the home and are generally not useful to a person in the
21 absence of illness or injury;

22 (d) Mobility enhancing equipment means equipment which
23 is primarily and customarily used to provide or increase the
24 ability to move from one place to another, which is not generally
25 used by persons with normal mobility, and which is appropriate

1 for use either in a home or a motor vehicle. Mobility enhancing
2 equipment includes repair and replacement parts for such equipment.
3 Mobility enhancing equipment does not include any motor vehicle or
4 equipment on a motor vehicle normally provided by a motor vehicle
5 manufacturer;

6 (e) Over-the-counter drug means a drug that contains a
7 label that identifies the product as a drug as required by 21
8 C.F.R. 201.66, as such regulation existed on January 1, 2003.
9 The over-the-counter drug label includes a drug facts panel or
10 a statement of the active ingredients with a list of those
11 ingredients contained in the compound, substance, or preparation;

12 (f) Oxygen equipment means oxygen cylinders, cylinder
13 transport devices including sheaths and carts, cylinder studs and
14 support devices, regulators, flowmeters, tank wrenches, oxygen
15 concentrators, liquid oxygen base dispensers, liquid oxygen
16 portable dispensers, oxygen tubing, nasal cannulas, face masks,
17 oxygen humidifiers, and oxygen fittings and accessories;

18 (g) Prescription means an order, formula, or recipe
19 issued in any form of oral, written, electronic, or other means of
20 transmission by a duly licensed practitioner authorized under ~~(i)~~
21 ~~the Advanced Practice Registered Nurse Act prior to July 1, 2007,~~
22 ~~and the Certified Registered Nurse Anesthetist Act, the Nebraska~~
23 ~~Certified Nurse Midwifery Practice Act, or the Nurse Practitioner~~
24 ~~Act on and after July 1, 2007, (ii) Chapter 71, article 1, or (iii)~~
25 ~~sections 71-4701 to 71-4719, the Uniform Credentialing Act; and~~

1 (h) Prosthetic devices means a replacement, corrective,
2 or supportive device worn on or in the body to artificially
3 replace a missing portion of the body, prevent or correct physical
4 deformity or malfunction, or support a weak or deformed portion
5 of the body, and includes any supplies used with such device and
6 repair and replacement parts.

7 Sec. 1309. Section 77-3504, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-3504 Household income means the total federal adjusted
10 gross income, as defined in the Internal Revenue Code, plus (1)
11 any Nebraska adjustments increasing the total federal adjusted
12 gross income, (2) any interest or dividends received by the owner
13 regarding obligations of the State of Nebraska or any political
14 subdivision, authority, commission, or instrumentality thereof to
15 the extent excluded in the computation of gross income for federal
16 income tax purposes, and (3) any social security or railroad
17 retirement benefit to the extent excluded in the computation of
18 gross income for federal income tax purposes, of the claimant
19 and spouse, and any additional owners who are natural persons and
20 who occupy the homestead, for the taxable year of the claimant
21 immediately prior to the year for which the claim for exemption
22 is made, less all medical expenses actually incurred and paid by
23 the claimant, his or her spouse, or any owner-occupant which are
24 in excess of four percent of household income calculated prior to
25 the deduction for medical expenses. For purposes of this section,

1 medical expenses means the costs of health insurance premiums and
2 the costs of goods and services purchased from a person licensed
3 under ~~Chapter 71, article 1 or 47,~~ the Uniform Credentialing Act
4 or a health care facility or health care service licensed under
5 the Health Care Facility Licensure Act for purposes of restoring
6 or maintaining health, including insulin and prescription medicine,
7 but not including nonprescription medicine.

8 Sec. 1310. Section 80-325, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 80-325 The administrator of the Nebraska veterans homes
11 shall be a licensed nursing home administrator licensed under
12 ~~sections 71-6053 to 71-6068.~~ the Nursing Home Administrator
13 Practice Act. Qualified applicants for the position of
14 administrator who were discharged or otherwise separated with a
15 characterization of honorable from the armed forces of the United
16 States during a period of war as defined in section 80-401.01 shall
17 be given a preference over other applicants.

18 Sec. 1311. Section 81-2,281, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-2,281 (1) The department shall enforce the Nebraska
21 Pure Food Act. The department may contract with any political
22 subdivision or state agency it deems qualified to conduct any or
23 all regulatory functions authorized pursuant to the act except
24 those functions relating to the issuance, suspension, or revocation
25 of permits or any order of probation. Holders of permits issued

1 pursuant to the act who are regularly inspected by political
2 subdivisions under contract with the department shall be exempt
3 from the inspection fees prescribed in section 81-2,270 if such
4 holders pay license or inspection fees to the political subdivision
5 performing the inspections.

6 (2) It shall be the responsibility of the regulatory
7 authority to inspect food establishments and food processing plants
8 as often as required by the act. An inspection of a salvage
9 operation shall be performed at least once every three hundred
10 sixty-five days of operation. Additional inspections shall be
11 performed as often as is necessary for the efficient and effective
12 enforcement of the act.

13 (3) All inspections conducted pursuant to the act shall
14 be performed by persons who are provisional environmental health
15 specialists or registered environmental health specialists or
16 trainees as defined in section ~~71-3702.~~ 526 or 527 of this
17 act.

18 (4) Duly authorized personnel of the regulatory authority
19 after showing proper identification shall have access at all
20 reasonable times to food establishments, food processing plants,
21 or salvage operations required by the act to obtain a permit
22 to perform authorized regulatory functions. Such functions shall
23 include, but not be limited to, inspections, checking records
24 maintained in the establishment or other locations to obtain
25 information pertaining to food and supplies purchased, received,

1 used, sold, or distributed, copying and photographing violative
2 conditions, and examining and sampling food. When samples are
3 taken, the inspectors shall pay or offer to pay for samples
4 taken. The authorized personnel shall also have access to the
5 records of salvage operations pertaining to distressed salvageable
6 and salvaged merchandise purchased, received, used, sold, or
7 distributed.

8 (5) Regulatory activities performed by a political
9 subdivision or state agency under contract shall conform with the
10 provisions of the act and such activities shall have the same
11 effect as those performed by the department. Any interference with
12 the regulatory authority's duty to inspect shall be an interference
13 with the department's duties for the purposes of section 81-2,273.

14 Sec. 1312. Section 81-657, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 81-657 (1) If a person with brain or head injury is
17 not admitted to a hospital within the state but is treated in
18 this state in the office of a physician or psychologist licensed
19 under the ~~Uniform Licensing Law~~, Credentialing Act, the treating
20 physician or psychologist shall report the brain or head injury
21 to the department within thirty days after identification of
22 the person sustaining such injury. Each treating physician or
23 psychologist shall be required to report each brain or head injury
24 only one time.

25 (2) Each hospital and each rehabilitation center located

1 within a hospital in the State of Nebraska shall annually report to
2 the department a brain or head injury which results in admission or
3 treatment.

4 (3) The report shall contain the following information
5 about the person sustaining the injury:

6 (a) Name;

7 (b) Social security number;

8 (c) Date of birth;

9 (d) Gender;

10 (e) Residence;

11 (f) Date of the injury;

12 (g) Final diagnosis or classification of the injury
13 according to the International Classification of Disease, Clinical
14 Modification Coding System, as adopted by the department;

15 (h) Cause of the injury and, if practicable, whether the
16 injury resulted from an accident involving the use of alcohol;

17 (i) Place or site of occurrence of the injury;

18 (j) Identification of the reporting source;

19 (k) Dispensation upon discharge;

20 (l) Payor source; and

21 (m) Any additional information the department can
22 demonstrate is reasonable in order to implement the purposes stated
23 in section 81-653.

24 Sec. 1313. Section 81-6,102, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 81-6,102 (1) If a resident of this state is diagnosed
2 with Parkinson's disease or a related movement disorder within this
3 state in the office of a physician licensed under the Uniform
4 ~~Licensing Law~~, Credentialing Act, the physician shall file a report
5 of the diagnosis and pertinent information with the department
6 within sixty days after the diagnosis.

7 (2) An individual resident of this state who has been
8 diagnosed with Parkinson's disease or a related movement disorder
9 by a licensed physician may file a report with the department
10 providing relevant information. The department shall provide for
11 validation of individual reports.

12 (3) A report filed under this section shall contain the
13 following information about the person diagnosed with Parkinson's
14 disease or a related movement disorder:

- 15 (a) Name;
- 16 (b) Social security number;
- 17 (c) Date of birth;
- 18 (d) Gender;
- 19 (e) Address at time of diagnosis;
- 20 (f) Current address;
- 21 (g) Date of diagnosis;
- 22 (h) Physician;
- 23 (i) Identification of reporting source; and
- 24 (j) Any additional information the department
25 demonstrates is reasonable to implement the Parkinson's Disease

1 Registry Act.

2 Sec. 1314. Section 81-2121, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 81-2121 Nothing in the State Electrical Act shall be
5 construed to:

6 (1) Require employees of municipal corporations,
7 public power districts, public power and irrigation districts,
8 electric membership or cooperative associations, public utility
9 corporations, railroads, telephone or telegraph companies, or
10 commercial or industrial companies performing manufacturing,
11 installation, and repair work for such employer to hold licenses
12 while acting within the scope of their employment;

13 (2) Require any person doing work for which a license
14 would otherwise be required under the act to hold a license issued
15 under the act if he or she is the holder of a valid license issued
16 by any city or other political subdivision, so long as he or she
17 makes electrical installations only in the jurisdictional limits of
18 such city or political subdivision and such license issued by the
19 city or political subdivision meets the requirements of the act;

20 (3) Cover the installation, maintenance, repair, or
21 alteration of vertical transportation or passenger conveyors,
22 elevators, moving walks, dumbwaiters, stagelifts, manlifts, or
23 appurtenances thereto beyond the terminals of the controllers. The
24 licensing of elevator contractors or constructors shall not be
25 considered a part of the licensing requirements of the act;

1 (4) Require a license of any person who engages any
2 electrical appliance where approved electrical outlets are already
3 installed;

4 (5) Prohibit an owner of property from performing
5 work on his or her principal residence, if such residence is
6 not larger than a single-family dwelling, or farm property,
7 excluding commercial or industrial installations or installations
8 in public-use buildings or facilities, or require such owner to be
9 licensed under the act;

10 (6) Require that any person be a member of a labor union
11 in order to be licensed; or

12 (7) Prohibit a pump installation contractor or pump
13 installation supervisor credentialed under the Water Well Standards
14 and Contractors' Licensing Practice Act from wiring pumps and
15 pumping equipment at a water well location to the first control.

16 Sec. 1315. Section 6, Legislative Bill 296, One Hundredth
17 Legislature, First Session, 2007, is amended to read:

18 Sec. 6. (1) The Governor shall appoint a director for
19 each division created in section 4 of this act who shall serve
20 at the pleasure of the Governor and shall report to the chief
21 executive officer. Each division director shall be subject to
22 confirmation by a majority of the members of the Legislature.

23 (2) If the Director of Public Health is licensed to
24 practice medicine and surgery in the State of Nebraska, he or
25 she shall also be the chief medical officer. If the Director of

1 Public Health is not licensed to practice medicine and surgery in
2 the State of Nebraska, the Governor shall appoint a chief medical
3 officer in addition to the Director of Public Health. The chief
4 medical officer shall be licensed to practice medicine and surgery
5 in the State of Nebraska, shall serve at the pleasure of the
6 Governor, and shall be subject to confirmation by a majority of the
7 members of the Legislature.

8 (3) The chief medical officer shall perform duties
9 under the Uniform ~~Licensing Law~~ enumerated Credentialing Act as
10 provided in section 71-155.01, 101 of this act, shall be the final
11 decisionmaker in contested cases of health care facilities defined
12 in the Health Care Facility Licensure Act arising under the act and
13 sections 71-6042, 71-6732, and 81-604.03, and shall perform such
14 other duties as provided by law.

15 Sec. 1316. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
16 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,
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3 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851,
4 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864,
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22 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083,
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24 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105,
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3 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149,
4 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160,
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6 1172, 1173, 1174, 1175, 1176, 1177, 1179, 1180, 1181, 1182, 1183,
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8 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205,
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13 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260,
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17 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304,
18 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315,
19 1318, and 1319 of this act become operative on December 1, 2008.
20 The other sections of this act become operative on their effective
21 date.

22 Sec. 1317. Original section 71-1,190, Reissue Revised
23 Statutes of Nebraska, is repealed.

24 Sec. 1318. Original sections 25-12,123, 25-21,247,
25 27-504, 43-129, 43-146.03, 44-792, 44-2804, 44-2902, 44-32,170,

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1 44-4110, 46-604, 46-1201, 46-1202, 46-1203, 46-1204.01, 46-1205,
2 46-1205.01, 46-1207.01, 46-1209, 46-1210, 46-1213, 46-1214,
3 46-1214.01, 46-1218, 46-1219, 46-1223, 46-1223.01, 46-1224,
4 46-1225, 46-1227, 46-1229, 46-1230, 46-1231, 46-1233, 46-1240,
5 46-1241, 54-311, 60-4,118.02, 60-6,261, 69-302, 71-103, 71-105,
6 71-108, 71-111, 71-112.03, 71-115.01, 71-117, 71-118, 71-120,
7 71-122, 71-124, 71-124.01, 71-125, 71-128, 71-129, 71-133,
8 71-138, 71-145, 71-147.01, 71-147.02, 71-148, 71-149, 71-150,
9 71-152, 71-153, 71-154, 71-155, 71-155.01, 71-155.03, 71-156,
10 71-157, 71-158, 71-159, 71-161.01, 71-161.02, 71-161.04,
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13 71-162.05, 71-164, 71-164.01, 71-166, 71-167, 71-168.01,
14 71-169, 71-170, 71-171, 71-171.01, 71-171.02, 71-172.01, 71-173,
15 71-174, 71-174.02, 71-175, 71-176, 71-176.01, 71-177, 71-178,
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17 71-185.01, 71-185.02, 71-189, 71-191, 71-193.04, 71-193.13,
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21 71-1,105, 71-1,107.01, 71-1,107.03, 71-1,107.06, 71-1,107.07,
22 71-1,107.08, 71-1,107.09, 71-1,107.11, 71-1,107.13, 71-1,107.14,
23 71-1,107.15, 71-1,107.17, 71-1,107.18, 71-1,107.19, 71-1,107.20,
24 71-1,107.21, 71-1,107.23, 71-1,107.25, 71-1,107.28, 71-1,107.29,
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3 71-1,132.31, 71-1,132.37, 71-1,132.38, 71-1,132.41, 71-1,133,
4 71-1,134, 71-1,135, 71-1,135.01, 71-1,135.03, 71-1,135.04,
5 71-1,135.05, 71-1,135.06, 71-1,135.07, 71-1,136.01, 71-1,136.04,
6 71-1,136.05, 71-1,136.06, 71-1,136.07, 71-1,136.08, 71-1,137,
7 71-1,138, 71-1,139, 71-1,139.01, 71-1,140, 71-1,141, 71-1,143.02,
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9 71-1,147.18, 71-1,147.19, 71-1,147.20, 71-1,147.21, 71-1,147.22,
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11 71-1,147.28, 71-1,147.29, 71-1,147.30, 71-1,147.31, 71-1,147.32,
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13 71-1,147.46, 71-1,147.47, 71-1,147.48, 71-1,147.50, 71-1,147.52,
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12 71-356.03, 71-356.05, 71-357, 71-357.01, 71-357.02, 71-357.03,
13 71-358, 71-359, 71-360, 71-360.01, 71-361.01, 71-361.02, 71-361.03,
14 71-361.04, 71-361.05, 71-361.06, 71-361.07, 71-361.08, 71-361.09,
15 71-362, 71-365, 71-365.02, 71-369, 71-370, 71-372, 71-385, 71-388,
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6 71-1306, 71-1327, 71-1327.01, 71-1331, 71-1333, 71-1339, 71-1346,
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5 71-7001, 71-7702, 71-7901, 71-8228, 71-8231, 71-8253, 71-8402,
6 77-3504, 81-2,281, and 81-6,102, Reissue Revised Statutes
7 of Nebraska, sections 12-1208, 25-21,188.02, 28-328, 28-401,
8 28-401.01, 28-409, 28-414, 28-1013, 28-1301, 29-2261, 29-4013,
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12 71-5654, 71-5662, 71-6038, 71-6039, 71-6040, 71-6041, 71-6042,
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15 71-7427, 71-7436, 71-7454, 71-7457, 71-8709, 77-2704.09, 80-325,
16 81-657, and 81-2121, Revised Statutes Cumulative Supplement, 2006,
17 section 71-1,190, Reissue Revised Statutes of Nebraska, as amended
18 by section 1178 of this legislative bill, sections 71-1734,
19 71-1748, 71-1752, 71-1756, and 71-1765, Reissue Revised Statutes
20 of Nebraska, as amended by sections 17, 20, 22, 24, and 27,
21 respectively, Legislative Bill 185, One Hundredth Legislature,
22 First Session, 2007, sections 46-1235, 71-161.03, 71-193.18,
23 71-1,107.16, 71-1,135.02, 71-1,136, 71-1,147.45, 71-1340, 71-1341,
24 and 71-6065, Reissue Revised Statutes of Nebraska, as amended by
25 sections 210, 311, 329, 338, 341, 342, 351, 467, 468, and 649,

1 respectively, Legislative Bill 296, One Hundredth Legislature,
2 First Session, 2007, section 71-6728, Reissue Revised Statutes
3 of Nebraska, as amended by section 2, Legislative Bill 283, One
4 Hundredth Legislature, First Session, 2007, sections 71-1707,
5 71-1722, 71-1723.01, 71-1723.02, 71-1724, 71-1724.01, 71-1726.01,
6 71-1729, 71-1730, 71-1731, 71-1735, 71-1749, 71-1755, 71-1757,
7 71-17,118, 71-17,119, 71-17,121, 71-17,128, 71-17,134, 71-17,135,
8 71-17,137, 71-17,138, and 71-17,140, Revised Statutes Cumulative
9 Supplement, 2006, as amended by sections 5, 6, 8, 9, 10, 11,
10 12, 14, 15, 16, 18, 21, 23, 25, 28, 29, 30, 34, 36, 37, 38,
11 39, and 41, respectively, Legislative Bill 185, One Hundredth
12 Legislature, First Session, 2007, sections 46-1217, 71-101, 71-102,
13 71-1,104.01, and 71-1,339, Revised Statutes Cumulative Supplement,
14 2006, as amended by sections 209, 296, 297, 333, and 362,
15 respectively, Legislative Bill 296, One Hundredth Legislature,
16 First Session, 2007, and section 6, Legislative Bill 296, One
17 Hundredth Legislature, First Session, 2007, are repealed.

18 Sec. 1319. The following sections are outright
19 repealed: Sections 46-1219.01, 46-1220, 46-1222, 46-1226, 46-1232,
20 46-1235.02, 46-1236, 46-1237, 46-1237.03, 46-1240.02, 46-1240.03,
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