

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 463

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  
2 sections 25-12,123, 25-21,247, 27-504, 43-129, 43-146.03,  
3 44-792, 44-2804, 44-2902, 44-32,170, 44-4110, 46-604,  
4 46-1201, 46-1202, 46-1203, 46-1204.01, 46-1205,  
5 46-1205.01, 46-1207.01, 46-1209, 46-1210, 46-1213,  
6 46-1214, 46-1214.01, 46-1218, 46-1219, 46-1223,  
7 46-1223.01, 46-1224, 46-1225, 46-1227, 46-1229,  
8 46-1230, 46-1231, 46-1233, 46-1235, 46-1240, 46-1241,  
9 54-311, 60-4,118.02, 60-6,261, 69-302, 71-103, 71-105,  
10 71-108, 71-111, 71-112.03, 71-115.01, 71-117, 71-118,  
11 71-120, 71-122, 71-124, 71-124.01, 71-125, 71-128,  
12 71-129, 71-133, 71-138, 71-145, 71-147.01, 71-147.02,  
13 71-148, 71-149, 71-150, 71-152, 71-153, 71-154,  
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4 71-162.03, 71-162.04, 71-162.05, 71-164, 71-164.01,  
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6 71-171.01, 71-171.02, 71-172.01, 71-173, 71-174,  
7 71-174.02, 71-175, 71-176, 71-176.01, 71-177, 71-178,  
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9 71-185, 71-185.01, 71-185.02, 71-189, 71-191, 71-193.04,  
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13 71-193.32, 71-193.33, 71-193.34, 71-193.35, 71-1,104,  
14 71-1,105, 71-1,107.01, 71-1,107.03, 71-1,107.06,  
15 71-1,107.07, 71-1,107.08, 71-1,107.09, 71-1,107.11,  
16 71-1,107.13, 71-1,107.14, 71-1,107.15, 71-1,107.16,  
17 71-1,107.17, 71-1,107.18, 71-1,107.19, 71-1,107.20,  
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24 71-1,133, 71-1,134, 71-1,135, 71-1,135.01, 71-1,135.02,  
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23 71-1,206.15, 71-1,206.16, 71-1,206.20, 71-1,206.21,  
24 71-1,206.22, 71-1,206.23, 71-1,206.24, 71-1,206.25,  
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6 71-1,146.01, 71-1,147.33, 71-1,147.35, 71-1,148,  
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14 71-6117, 71-6118, 71-6119, 71-6120, 71-6121, 71-6122,  
15 71-6123, 71-6721, 71-7427, 71-7436, 71-7454, 71-7457,  
16 71-8709, 77-2704.09, 80-325, 81-657, and 81-3201,  
17 Revised Statutes Cumulative Supplement, 2006, and section  
18 71-1,190, Reissue Revised Statutes of Nebraska, as  
19 amended by section 1177 of this legislative bill; to  
20 transfer, rename, and change and eliminate provisions  
21 of the Uniform Licensing Law; to transfer, rename,  
22 and change and eliminate provisions relating to the  
23 State Board of Health, advanced practice registered  
24 nurses, alcohol and drug counseling, asbestos, athletic  
25 training, audiology and speech-language pathology,



1 certified nurse midwifery, certified registered nurse  
2 anesthetists, chiropractic, clinical nurse specialists,  
3 cosmetology, electrology, esthetics, nail technology,  
4 and body art, dentistry, emergency medical services,  
5 environmental health specialists, funeral directing  
6 and embalming, hearing aid instrument dispensers and  
7 fitters, licensed practical nurses-certified, massage  
8 therapy, medical nutrition therapy, medical radiographers  
9 and limited radiographers, medication aides, medicine  
10 and surgery, mental health practice, nurse assistants  
11 and paid dining assistants, nurse practice, nurse  
12 practitioners, nursing home administrators, occupational  
13 therapy, optometry, pharmacy, physical therapy,  
14 podiatry, psychology, radiation control, residential  
15 lead-based paint, respiratory care, veterinary medicine  
16 and surgery, water operators, and water wells;  
17 to harmonize provisions; to provide an operative  
18 date; to repeal the original sections; and to  
19 outright repeal sections 46-1219.01, 46-1220, 46-1222,  
20 46-1226, 46-1232, 46-1235.01, 46-1235.02, 46-1236,  
21 46-1237, 46-1237.01, 46-1237.02, 46-1237.03, 46-1240.02,  
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5 71-1,107.02, 71-1,107.04, 71-1,107.05, 71-1,107.10,  
6 71-1,107.12, 71-1,107.24, 71-1,107.26, 71-1,107.27,  
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10          71-5181, 71-5182, 71-5192, 71-51,100, 71-6053, 71-6057,  
11          71-6059, 71-6061, 71-6064, 71-6066, 71-6067, 71-6068,  
12          71-6109, 71-6110, 71-6111, and 71-6112, Reissue Revised  
13          Statutes of Nebraska, and sections 46-1233.01, 71-139.02,  
14          71-1,132.05, 71-1,142, 71-1,198, 71-1,360, 71-1,367,  
15          71-1,389, 71-375, 71-376, 71-377, 71-397, 71-3,145,  
16          71-3,174, 71-3,179, 71-1721.07, 71-1723, 71-1724.02,  
17          71-1725, 71-1725.01, 71-1726, 71-1726.02, 71-1736.01,  
18          71-1736.02, 71-1736.03, 71-1737, 71-1758, 71-17,122,  
19          71-17,123, 71-17,124, 71-17,125, 71-17,126, 71-17,127,  
20          71-17,129, 71-17,130, 71-17,139, and 71-17,141, Revised  
21          Statutes Cumulative Supplement, 2006.

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

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

3           ~~71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to~~  
4 ~~71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354 and the~~  
5 ~~Physical Therapy Practice Act Sections 1 to 139 of this act and~~  
6 ~~the following practice acts shall be known and may be cited as the~~  
7 ~~Uniform Licensing Law- Credentialing Act:~~

8           (1) The Advanced Practice Registered Nurse Practice Act;

9           (2) The Alcohol and Drug Counseling Practice Act;

10          (3) The Athletic Training Practice Act;

11          (4) The Audiology and Speech-Language Pathology Practice

12 Act;

13          (5) The Certified Nurse Midwifery Practice Act;

14          (6) The Certified Registered Nurse Anesthetist Practice

15 Act;

16          (7) The Chiropractic Practice Act;

17          (8) The Clinical Nurse Specialist Practice Act;

18          (9) The Cosmetology, Electrology, Esthetics, Nail

19 Technology, and Body Art Practice Act;

20          (10) The Dentistry Practice Act;

21          (11) The Emergency Medical Services Practice Act;

22          (12) The Environmental Health Specialists Practice Act;

23          (13) The Funeral Directing and Embalming Practice Act;

24          (14) The Hearing Aid Instrument Dispensers and Fitters

25 Practice Act;

- 1           (15) The Licensed Practical Nurse-Certified Practice Act;  
2           (16) The Massage Therapy Practice Act;  
3           (17) The Medical Nutrition Therapy Practice Act;  
4           (18) The Medical Radiography Practice Act;  
5           (19) The Medicine and Surgery Practice Act;  
6           (20) The Mental Health Practice Act;  
7           (21) The Nurse Practice Act;  
8           (22) The Nurse Practitioner Practice Act;  
9           (23) The Nursing Home Administrator Practice Act;  
10          (24) The Occupational Therapy Practice Act;  
11          (25) The Optometry Practice Act;  
12          (26) The Pharmacy Practice Act;  
13          (27) The Physical Therapy Practice Act;  
14          (28) The Podiatry Practice Act;  
15          (29) The Psychology Practice Act;  
16          (30) The Respiratory Care Practice Act;  
17          (31) The Veterinary Medicine and Surgery Practice Act;  
18          and  
19          (32) The Water Well Standards and Contractors' Practice  
20          Act.

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

25           For purposes of the Uniform Licensing Law, unless the

1 ~~context otherwise requires:~~

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

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

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

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

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

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

22 ~~(7) Certificate, certify, or certification, with respect~~  
23 ~~to professions, means a voluntary process by which a statutory,~~  
24 ~~regulatory entity grants recognition to an individual who has met~~  
25 ~~certain prerequisite qualifications specified by such regulatory~~

1 entity and who may assume or use the word certified in the title or  
2 designation to perform prescribed health professional tasks. When  
3 appropriate, certificate means a document issued by the department  
4 which designates particular credentials for an individual;

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

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

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

19 Sec. 2. The Legislature recognizes the need for  
20 regulation of persons and businesses providing health and  
21 health-related services and environmental services. It is the  
22 intent of the Legislature to provide for such regulation through  
23 the Uniform Credentialing Act. It is the intent of the Legislature  
24 to not impose any requirements beyond those in effect immediately  
25 prior to the operative date of this section on school districts,

1 educational service units, or other public or private educational  
2 institutions or entities serving prekindergarten through twelfth  
3 grade students.

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

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

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 their effectiveness is  
24 otherwise terminated pursuant to 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 Department of Health and  
3 Human Services Regulation and Licensure.

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 Regulation and  
11 Licensure 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, is amended to read:

- 1           71-102 (1) No person individual shall engage in the  
2 practice of medicine and surgery, athletic training, respiratory  
3 care, osteopathic medicine, chiropractic, dentistry, dental  
4 hygiene, pharmacy, podiatry, optometry, massage therapy, physical  
5 therapy, audiology, speech-language pathology, embalming, funeral  
6 directing, psychology, veterinary medicine and surgery, medical  
7 nutrition therapy, acupuncture, mental health practice, or alcohol  
8 and drug counseling following practices unless such individual has  
9 obtained a credential under the Uniform Credentialing Act:
- 10           (a) Acupuncture;  
11           (b) Advanced practice nursing;  
12           (c) Alcohol and drug counseling;  
13           (d) Asbestos abatement, inspection, project design, and  
14 training;  
15           (e) Athletic training;  
16           (f) Audiology;  
17           (g) Speech-language pathology;  
18           (h) Body art;  
19           (i) Chiropractic;  
20           (j) Cosmetology;  
21           (k) Dentistry;  
22           (l) Dental hygiene;  
23           (m) Electrology;  
24           (n) Emergency medical services;  
25           (o) Esthetics;

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

1 installing water well pumps and pumping equipment. unless such  
2 person has obtained a license from the Department of Health and  
3 Human Services Regulation and Licensure for that purpose.

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

7 (a) Registered environmental health specialist;

8 (b) Certified marriage and family therapist;

9 (c) Certified professional counselor; or

10 (d) Social worker.

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

14 (a) Body art;

15 (b) Cosmetology;

16 (c) Emergency medical services;

17 (d) Esthetics;

18 (e) Funeral directing and embalming;

19 (f) Massage therapy; or

20 (g) Nail technology. No person shall hold himself or  
21 herself out as a certified social worker or certified master social  
22 worker unless such person has obtained a certificate from the  
23 department for that purpose.

24 ~~(3) No person shall hold himself or herself out as a~~  
25 ~~certified professional counselor unless such person has obtained a~~

1 ~~certificate from the department for such purpose.~~

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

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

7 ~~71-105~~ Every initial credential to practice a profession  
8 or engage in a business shall be in the form of a document under  
9 the name and seal of the department and signed by the ~~Director~~  
10 ~~of Regulation and Licensure and~~ director, the Governor, and the  
11 officers - It shall also be countersigned by the members of the  
12 appropriate professional board, if any. ~~except that all credentials~~  
13 ~~granted without examination may be issued by the department under~~  
14 ~~its name and seal and signed by its director and the Governor. A~~  
15 ~~copy of all credentials shall be retained in the department and~~  
16 ~~given the same number as has been assigned to the credentialed~~  
17 ~~person in the other records of the department.~~

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

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

25 (a) The record information shall include:



- 1           (i) The name, date and place of birth, and social  
2 security number;
- 3           (ii) The street, rural route, or post office address;
- 4           (iii) The school and date of graduation;
- 5           (iv) The name of examination, date of examination, and  
6 ratings or grades received, if any;
- 7           (v) The type of credential issued, the date the  
8 credential was issued, the identifying name and number assigned to  
9 the credential, and the basis on which the credential was issued;
- 10          (vi) The status of the credential; and
- 11          (vii) A description of any disciplinary action against  
12 the credential, including, but not limited to, the type of  
13 disciplinary action, the effective date of the disciplinary action,  
14 and a description of the basis for any such disciplinary action;
- 15          (b) The record may contain any additional information the  
16 department deems appropriate to advance or support the purpose of  
17 the Uniform Credentialing Act;
- 18          (c) The record may be maintained in computer files or  
19 paper copies and may be stored on microfilm or in similar form; and
- 20          (d) The record is a public record, except that social  
21 security numbers shall not be public information but may be shared  
22 as specified in subsection (5) of section 30 of this act.
- 23          (3) For credential holders engaged in a business:
- 24           (a) The record information shall include:
- 25           (i) The full name and address of the business;

1           (ii) The type of credential issued, the date the  
2 credential was issued, the identifying name and number assigned  
3 to the credential, and the basis on which the credential was  
4 issued;

5           (iii) The status of the credential; and

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

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

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

15           (d) The record is a public record.

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

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

23           71-107 Every person credentialed under the Uniform  
24 Licensing Law to practice a profession shall keep the credential  
25 available in an office or place in which he or she practices and

1 ~~shall show such proof of credentialing~~ Credentialing Act shall  
 2 make the person's current credential available upon request. The  
 3 department, with the recommendation of the appropriate board, if  
 4 any, shall determine how a consumer will be able to identify a  
 5 credential holder. The method of identification shall be clear and  
 6 easily accessed and used by the consumer.

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

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

23 ~~71-145~~ (1) Upon request and payment of the required  
 24 fee, the department shall provide certification of a credential  
 25 which shall include a certified statement that provides information

1 regarding the basis on which a credential was issued, the date of  
2 issuance, and whether disciplinary action has been taken against  
3 the credential. ~~The certification shall be issued under the name  
4 and seal of the department.~~

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

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

11 ~~71-169 The Department of Health and Human Services  
12 Regulation and Licensure shall promulgate necessary rules and  
13 regulations and forms for carrying out the provisions of the  
14 Uniform Licensing Law. It may also adopt rules and regulations  
15 supplementing any of the provisions herein contained but not  
16 inconsistent therewith.~~

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

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

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

- 1           (ii) Designate credentialing examinations, specify the  
2 passing score on credentialing examinations, and specify standards,  
3 if any, for accepting examination results from other jurisdictions;
- 4           (iii) Set continuing competency requirements in  
5 conformance with section 45 of this act;
- 6           (iv) Set standards for waiver of continuing competency  
7 requirements in conformance with section 46 of this act;
- 8           (v) Set standards for courses of study; and
- 9           (vi) Specify acts in addition to those set out in section  
10 79 of this act that constitute unprofessional conduct; and
- 11           (b) The department shall promulgate and enforce such  
12 rules and regulations;
- 13           (2) For professions or businesses that do not have a  
14 board created by statute:
- 15           (a) The department may adopt, promulgate, and enforce  
16 such rules and regulations; and
- 17           (b) The department shall carry out any statutory powers  
18 and duties of the board;
- 19           (3) The department, with the recommendation of the  
20 appropriate board, if any, may adopt, promulgate, and enforce  
21 rules and regulations for the respective profession, other than  
22 those specified in subdivision (1) of this section, to carry out  
23 the Uniform Credentialing Act; and
- 24           (4) The department may adopt, promulgate, and enforce  
25 rules and regulations with general applicability to carry out the

1 Uniform Credentialing Act.

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

4           ~~71-170~~ The department shall have ~~printed in pamphlet~~  
5 ~~form~~ available for each profession and business regulated under  
6 the Uniform Credentialing Act the applicable statutes, rules,  
7 and regulations relative to the credentials for the appropriate  
8 profession or business. ~~the following matter which is pertinent to~~  
9 ~~the particular profession for which such pamphlet is published;~~ (1)  
10 ~~The law regulating the practice of the profession;~~ (2) ~~the rules of~~  
11 ~~the department relative to credentials;~~ and (3) ~~the rules relating~~  
12 ~~to examinations adopted by the department on the recommendation of~~  
13 ~~the professional board.~~

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

16           ~~71-1,343~~ (1) It is the intent of the Legislature that  
17 quality health care services and human services be provided to all  
18 ~~citizens of the state~~ the public and basic standards be developed  
19 to protect the public health and safety and that professions be  
20 regulated by the state only when it is demonstrated that such  
21 regulation is in the best interests of the public.

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

25           Sec. 29. Section 71-103, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-103~~ No ~~person~~ individual shall be ~~licensed, certified,~~  
3 ~~or registered to practice a profession~~ issued a credential under  
4 the Uniform ~~Licensing Law~~ Credentialing Act until he or she has  
5 furnished satisfactory evidence to the department that he or she  
6 is of good character and has attained the age of majority and  
7 is of good moral character, nineteen years except as otherwise  
8 specifically provided by statute, rule, or regulation. A credential  
9 may only be issued to a citizen of the United States, an alien  
10 lawfully admitted into the United States who is eligible for a  
11 credential under the Uniform Credentialing Act, or a nonimmigrant  
12 whose visa for entry, or application for visa for entry, is related  
13 to such employment in the United States.

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

16           ~~71-108~~ The name, date and place of birth, location  
17 or post office address, school and date of graduation, date  
18 of examination and ratings or grades received, and date of a  
19 credential if one is issued of all applicants for examination in  
20 the several professions regulated by the Uniform Licensing Law  
21 shall be entered in a record kept in the office of the department  
22 to be known as the registry record. A separate registry record  
23 shall be kept for each profession, the names of applicants in  
24 that profession shall be given consecutive numbers, and all other  
25 records relating to that application or the credential granted

1 pursuant to that application shall be given the same number. A  
2 list shall also be kept of those granted credentials in the several  
3 professions. Applications for a credential shall be upon forms  
4 prepared by the department, and the completed applications shall  
5 be kept as a part of the permanent files of the department.  
6 If the applicant is an individual, the application shall include  
7 the applicant's social security number. All applications based on  
8 credentials granted in other states shall be received upon forms  
9 prepared by the department and entered in the registry records  
10 as nearly as may be in the same form as are those applying for  
11 examinations. In addition, the date of credentialing and the length  
12 of time of practice in the other state shall be given and entered.  
13 An applicant for credentialing in this state shall not be required  
14 to resubmit information previously submitted in connection with  
15 an application for credentialing made in this state or another  
16 jurisdiction unless requested by the department. The data in any  
17 or all of such records may be maintained in computer files, placed  
18 upon microfilm, or stored in a similar form. All such records,  
19 in whatever form, shall be available for public inspection, as  
20 defined by rules and regulations of the department. Investigational  
21 records, reports, and files pertaining to an application shall not  
22 be a public record until action is taken to grant or deny the  
23 application and may be withheld from disclosure thereafter under  
24 section 84-712.05. (1) An individual shall file an application  
25 for a credential to practice a profession with the department



1 accompanied by the fee set pursuant to the Uniform Credentialing  
2 Act. The application shall contain:

3 (a) The legal name of the applicant;

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

5 (c) The address of the applicant;

6 (d) The social security number of the applicant or the  
7 resident identification number of the applicant if the applicant is  
8 not a citizen of the United States and is otherwise eligible to be  
9 credentialed under section 29 of this act; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22           ~~71-104.01~~ An applicant for an initial license to practice  
23 a profession which is authorized to prescribe controlled substances  
24 shall be subject to a criminal background check. The applicant  
25 shall submit with the application a full set of fingerprints which

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

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

16           ~~71-125~~ Any person desiring to take the an examination for  
17 licensure or certification to practice a profession credentialing  
18 purposes shall make application to the department or to the  
19 organization specified by the department prior to examination on  
20 a form provided by the department or such organization. Such  
21 application shall be accompanied by the examination fee and such  
22 documents and affidavits as are necessary to show the eligibility  
23 of the candidate to take such examination. All applications shall  
24 be in accordance with the rules and regulations of the department  
25 or such organization. When a national or standardized examination

1 is required, the department may direct the applicant to apply  
 2 directly to the organization administering the examination to take  
 3 the examination.

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

6 ~~71-128~~ The department shall prepare and keep up to date a  
 7 list of accredited colleges in which are taught maintain a list of  
 8 approved courses of study for the professions which are regulated  
 9 by the Uniform Licensing Law- Credentialing Act. The appropriate  
 10 ~~professional~~ board shall make recommendations relative thereto and  
 11 shall approve the list for the its profession. The department shall  
 12 approve the list for a profession if there is no appropriate board.  
 13 ~~for which it gives examinations.~~ No school course of study shall be  
 14 accredited approved without the formal action of the department and  
 15 or the appropriate board. Any professional school or college course  
 16 of study whose graduates or students desire to take the Nebraska  
 17 state board examination shall supply the department with the  
 18 necessary data to allow the board and the department to determine  
 19 whether that school course of study should be accredited. approved.  
 20 The department may adopt any national examination to constitute  
 21 part of or all of the licensure or certification examination for  
 22 any of the professions which are regulated by the Uniform Licensing  
 23 Law. Such examination shall be approved by the board as being a  
 24 part of or all of the examination for licensure or certification.

25 Sec. 34. Section 71-133, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-133~~ (1) The oral or practical work portion of any  
3 examination for ~~licensure or certification~~ a credential under the  
4 Uniform ~~Licensing Law shall~~ Credentialing Act may be given by a  
5 ~~majority of the members of the appropriate professional board, the~~  
6 department, or an organization approved by the appropriate board  
7 or the department if there is no board. ~~except in dentistry.~~ The  
8 oral examination questions shall be limited to the practice of  
9 the profession. The members of the board need not be present at  
10 the examination given to applicants when a national examination or  
11 any other written examination is utilized. Such board may delegate  
12 the administration of such examination to the department. The  
13 department may designate an organization to administer a national  
14 or written examination.

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

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

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

17           71-129 Examinations for licensure or certification  
18 credentialing shall be held on such dates and at such times and  
19 places as set by the department or the organization specified by  
20 approved by the appropriate board or the department. ~~may set.~~  
21 ~~Such dates, times, and places as set by the department shall not~~  
22 ~~exceed four in any one year except (1) as provided in section~~  
23 ~~71-133 for dentistry or (2) in those professions when nonpractical~~  
24 ~~examinations are available for administration by either computers~~  
25 ~~or in written form on a more frequent basis. Examinations may~~

1 be held in any college or program or at any other location as  
 2 determined by the department or the organization specified by the  
 3 department. Any examination may be held concurrently in two or more  
 4 places to accommodate the applicants therefor. Special examinations  
 5 may be given at the expense of the applicant and administered by  
 6 the department, or the organization specified by the department.  
 7 ~~or the appropriate professional board.~~

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

10 ~~71-131~~ (1) In the absence of any specific requirement or  
 11 provision relating to any particular profession:

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

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

24 (c) (b) An examinee who fails a licensure or  
 25 certification credentialing examination may retake the entire

1 examination or the part failed upon payment of the licensure ~~or~~  
 2 ~~certification fee each time he or she is examined.~~ cost of retaking  
 3 the examination; and

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

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

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

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

25 ~~(3)~~ In social work, the passing criterion for such



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

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

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

21           (6) Applicants for licensure in medicine and surgery  
22 and osteopathic medicine and surgery shall pass the licensing  
23 examination. An applicant who fails to pass any part of the  
24 licensing examination within four attempts shall complete one  
25 additional year of postgraduate medical education at an accredited

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

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

24           ~~(8)~~ In alcohol and drug counseling, the Board of Alcohol  
25 and Drug Counseling shall approve a licensing examination and

1 establish the passing criterion for such examination, which meets  
2 or exceeds the minimum international standards for alcohol and  
3 drug counselors established by the International Certification and  
4 Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc. or its  
5 successor.

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

8 ~~71-138~~ (1) All ~~question and answer sheets~~ questions,  
9 the answer key, and the examinees' answers connected with any  
10 examination for licensure or certification credentialing shall be  
11 maintained by the department, national organization, or testing  
12 service for a period of two years from the date of administration  
13 of the examination.

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

1 are accepted for credentialing, the department shall obtain from  
 2 the national organization or testing service documentation that  
 3 the examination development and maintenance process meets generally  
 4 accepted standards for test development and maintenance.

5 ~~(2)~~ (3) The department, ~~upon~~ with the recommendation of  
 6 the ~~professional~~ appropriate board, may: ~~adopt and promulgate rules~~  
 7 ~~and regulations.~~

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

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

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

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

1           ~~(e) To protect~~ (d) Protect the security of the content of  
2 examination questions and answers, ~~and~~

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

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

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

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

24           Sec. 39. The department may request the State Fire  
25 Marshal to inspect any business credentialed or applying for a

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

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

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

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

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

16           ~~71-110~~ (1) The credential to practice a profession shall  
17 be renewed biennially ~~without examination~~ upon request of the  
18 credentialed person and upon documentation of continuing competency  
19 pursuant to sections ~~71-161.09 and 71-161.10.~~ 45 and 46 of this  
20 act. The ~~biennial credential renewals provided for in this section~~  
21 shall be accomplished in such manner and on such date as the  
22 department, with the approval of the designated professional  
23 recommendation of the appropriate board, shall may establish. by  
24 ~~rule and regulation.~~ The biennial expiration date in the different  
25 professions shall be as follows:

- 1           ~~(a) January, pharmacy and psychology,~~
- 2           ~~(b) February, funeral directing and embalming,~~
- 3           ~~(c) March, dentistry and dental hygiene,~~
- 4           ~~(d) April, podiatry and veterinary medicine and surgery,~~
- 5           ~~(e) May, athletic training and acupuncture,~~
- 6           ~~(f) June, respiratory care,~~
- 7           ~~(g) August, chiropractic and optometry,~~
- 8           ~~(h) September, alcohol and drug counseling, medical~~
- 9           ~~nutrition therapy, mental health practice including any associated~~
- 10           ~~certification, and osteopathic medicine,~~
- 11           ~~(i) October, medicine and surgery,~~
- 12           ~~(j) November, massage therapy and physical therapy, and~~
- 13           ~~(k) December, audiology and speech-language pathology.~~

14           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. Such fee shall be paid not

17           later than the date of the expiration of such credential, except

18           that while persons actively engaged in the military service of

19           the United States, as defined in the Soldiers' and Sailors' Civil

20           Relief Act of 1940, Servicemembers Civil Relief Act, 50 U.S.C. App.

21           501 et seq., as the act existed on January 1, 2007, 2002, persons

22           credentialed to practice the professions listed in this subsection

23           shall not be required to pay the renewal fee.

24           (2) When a person credentialed pursuant to the Uniform

25           Licensing Law desires to have his or her credential lapse upon



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

22 (3) When a person credentialed pursuant to the Uniform  
23 Licensing Law Credentialing Act desires to have his or her  
24 credential placed on inactive status, ~~upon its expiration,~~ he  
25 or she shall notify the department of such desire in writing.

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

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

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

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

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

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

22           71-110.01 (1) The department may provide for the renewal  
23 of a credential to engage in a business as an apprentice training  
24 salon, a body art facility, a cosmetic establishment, a cosmetology  
25 salon, an electrology establishment, an emergency medical service,

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

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

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

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

16           71-149 (1) The department shall automatically revoke,  
17 without further notice or hearing, the credential of any person  
18 who fails, within thirty days after by the expiration date of  
19 such credential, to pay the required renewal fee, or to submit  
20 documentation of continuing competency, ~~or to pay the required late~~  
21 ~~fee,~~ and the department shall make proper record of such revocation  
22 shall automatically expire without further notice or hearing.

23           (2) The department shall ~~revoke,~~ refuse to renew after  
24 notice and opportunity for hearing, the credential of any person  
25 who fails, within thirty days after by the expiration date of

1 such credential, to meet the applicable continuing competency  
2 requirement for renewal.

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

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

11 ~~71-161.09~~ (1) ~~Each professional~~ The appropriate board  
12 shall establish continuing competency requirements for persons  
13 engaged in the active practice of the health care profession or  
14 occupation for which the board was designated, seeking renewal of  
15 a credential.

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

23 (3) ~~The~~ Each board shall consult with the department and  
24 the appropriate professional academies, professional societies, and  
25 professional associations in the development of such requirements.

1 The requirements shall be established in rules and regulations  
2 approved by the board and adopted and promulgated by the  
3 department.

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

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

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

19 (a) Continuing education;

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

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

23 (d) Professional certification;

24 (e) Self-assessment;

25 (f) Peer review or evaluation;

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

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

13 71-161.10 (1) Each ~~credentialed person in active practice~~  
14 holding an active credential within the state shall, on or  
15 before the date of expiration of his or her credential, ~~complete~~  
16 ~~the requirements to document compliance~~ comply with continuing  
17 competency requirements for his or her profession, ~~or occupation~~  
18 as specified by rules and regulations approved by the designated  
19 professional board and adopted and promulgated by the department  
20 pursuant to section 71-161.09. Except as otherwise provided in  
21 this section, the department shall not renew the credential of any  
22 person who has not complied with such requirements. ~~Procedures for~~  
23 ~~nonrenewal of the credential due to failure to document compliance~~  
24 ~~with continuing competency requirements shall be identical to those~~  
25 ~~for nonpayment of renewal fees as provided in sections 71-110 and~~



1 71-149, as well as procedures for reinstatement of the same. In  
2 cases other than nonrenewal, the procedures in sections 71-149 and  
3 71-150 for refusal to renew shall apply.

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

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

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

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

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

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

1 act.

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

6           ~~(2)~~ (3) Each credentialed person credential holder shall  
7 be responsible for maintaining in his or her personal files  
8 such certificates or records of continuing competency activities,  
9 received from approved providers.

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

19           Sec. 47. (1) Any person who desires to reinstate a  
20 credential after the date of expiration or from inactive to  
21 active status shall apply to the department for reinstatement.  
22 The credential may be reinstated upon the receipt of evidence of  
23 meeting the renewal requirements, or the requirements specified  
24 under the practice act for the appropriate profession, which are in  
25 effect at the time the credential holder applies to regain active

1 status and payment of reinstatement and renewal fees if applicable.

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

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

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

13 ~~71-161.04 (1)~~ A person credentialed by the department  
14 whose credential has been suspended or has had limitations placed  
15 thereon for any reason specified in sections 71-147 and 71-148 may  
16 petition the appropriate professional board to recommend the 78 and  
17 79 of this act may apply for reinstatement of the credential at  
18 any time. The application shall include such information as may be  
19 required by the department.

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

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

1           71-161.06 A petition for reinstatement of a license,  
2 certificate, or registration shall be considered at the next  
3 meeting of the board that is held not earlier than thirty days  
4 after the petition was filed. No public hearing need be held  
5 on the petition if the board recommends reinstatement of the  
6 license, certificate, or registration. Opportunity for a formal  
7 public hearing on the petition shall be granted by the board, if  
8 formally requested by the petitioner, prior to any recommendation  
9 by the board against reinstatement. Any petition for reinstatement  
10 accompanied by the requisite information and necessary documents  
11 shall be conclusively acted upon by the board within one hundred  
12 eighty days after the filing of the properly prepared petition and  
13 necessary accompanying documents with the board. If the petitioner  
14 formally requests opportunity for a formal public hearing thereon  
15 or if the board otherwise holds such a hearing, the petitioner  
16 shall be given at least thirty days' prior notice thereof by  
17 sending a copy of the notice of hearing by means of certified or  
18 registered mail directed to the petitioner at his or her last-known  
19 residence or business post office address as shown by the files or  
20 records of the Department of Health and Human Services Regulation  
21 and Licensure or as otherwise known or by means of personal service  
22 by being personally served by any sheriff or constable or by  
23 any person especially appointed by the board. The hearing may be  
24 continued from time to time as the board finds necessary.

25           (1) Upon receipt of an application under section 48 of

1 this act for reinstatement of a credential in a profession that  
2 has a board, the application shall be sent to the board for  
3 consideration. Any application for reinstatement, accompanied by  
4 the required information and documentation, shall be acted upon by  
5 the board within one hundred eighty days after the filing of the  
6 completed application.

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

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

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

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

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

24 (e) Require the applicant to successfully pass an  
25 inspection of his or her practice site; 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 board shall (a) deny the application  
7 for reinstatement or (b) recommend to the department (i) full  
8 reinstatement of the credential, (ii) modification of the  
9 suspension or limitation, or (iii) reinstatement of the credential  
10 subject to limitations or subject to probation with terms and  
11 conditions.

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

25           (5) (a) The department may only consider applications for

1 reinstatement with an affirmative recommendation of the appropriate  
2 board. If the board recommends (i) full reinstatement of the  
3 credential, (ii) modification of the suspension or limitation,  
4 or (iii) reinstatement of the credential subject to limitations  
5 or subject to probation with terms and conditions, the board's  
6 recommendation shall be sent to the applicant by certified mail and  
7 forwarded to the director for a decision.

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

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

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

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

1 Administrative Procedure Act.

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

5                   (2) The department may:

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

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

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

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

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

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

24                   (3) On the basis of material submitted by the applicant,  
25 the results of any inspection or investigation by the department,



1 and the completion of any requirements imposed under subsection  
2 (2) of this section, the department shall (a) deny the application  
3 for reinstatement, (b) grant the application for reinstatement, (c)  
4 modify the probation, suspension, or limitation, or (d) reinstate  
5 the credential subject to limitations or subject to probation with  
6 terms and conditions.

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

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

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

24 ~~71-162~~ (1) It is the intent of the Legislature that the  
25 revenue to cover the cost of the credentialing system administered

1 by the department is to be derived from General Funds, cash  
2 funds, federal funds, gifts, grants, or fees from individuals or  
3 ~~entities~~ businesses seeking credentials. The credentialing system  
4 includes the totality of the credentialing infrastructure and the  
5 process of issuance and renewal of credentials, examinations,  
6 inspections, investigations, continuing competency, compliance  
7 assurance, and the credentialing review process for ~~the following~~  
8 individuals and ~~entities~~ businesses that provide health services,  
9 and health-related services, and environmental services. +

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

1           ~~(b) Individuals in the practice of and entities in the~~  
2 ~~business of body art, cosmetology, electrology, emergency medical~~  
3 ~~services, esthetics, funeral directing and embalming, massage~~  
4 ~~therapy, and nail technology.~~

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

10           (3) When fees are to be established pursuant to section  
11 ~~71-162.04~~ 55 of this act for individuals or ~~entities~~ businesses  
12 other than individuals in the practice of constructing or  
13 decommissioning water wells and installing water well pumps and  
14 pumping equipment, the department, ~~upon~~ with the recommendation  
15 of the appropriate board if applicable, shall base the fees on  
16 the cost of the credentialing system and shall include usual and  
17 customary cost increases, a reasonable reserve, and the cost of  
18 any new or additional credentialing activities. For individuals in  
19 the practice of constructing or decommissioning water wells and  
20 installing water well pumps and pumping equipment, the Water Well  
21 Standards and Contractors' Licensing Board shall establish the fees  
22 as otherwise provided in this subsection. All such fees shall be  
23 ~~collected~~ used as provided in section ~~71-163.~~ 57 of this act.

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

1           ~~71-162.01~~ Base costs of credentialing are the costs that  
2 are common to all professions and ~~occupations~~ businesses listed in  
3 section ~~71-162~~ 21 of this act and include the following:

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

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

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

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

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

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

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

21           ~~71-162.02~~ Variable costs of credentialing are the costs  
22 that are unique to a specific profession or ~~occupation~~ business  
23 listed in section ~~71-162~~ 21 of this act and include the following:

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

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

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

8           (4) Costs to operate and administer the Nebraska Center  
9 for Nursing, which costs shall be derived from credentialing fees  
10 of registered and practical nurses in accordance with section  
11 71-1798.01; and

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

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

16           ~~71-162.03~~ Adjustments to the cost of credentialing  
17 include, but are not limited to:

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

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

22           (b) Certification and verification of credentials;

23           ~~(c) Late fees;~~

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

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

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

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

11           ~~71-162.04~~ (1) The department, ~~upon~~ with the  
 12 recommendation of the appropriate board if applicable, or  
 13 the Water Well Standards and Contractors' Licensing Board as  
 14 provided in section ~~71-162,~~ 51 of this act, shall adopt and  
 15 promulgate rules and regulations to establish and collect the fees  
 16 for the following credentials:

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

19           (i) Licensure, certification, or registration;

20           (ii) Add-on or specialty credentials;

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

22 and

23           (iv) Supervisory or collaborative relationship  
 24 credentials;

25           (b) Applications to renew licenses, certifications, and

1 registrations;

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

4 (d) Inspections and reinspections.

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

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

14 ~~71-162.05~~ (1) The department shall retain a  
15 twenty-five-dollar administrative fee from each credentialing  
16 fee established under section ~~71-162.04~~ 55 of this act for a denied  
17 credential or a withdrawn application, except that (a) if the  
18 credentialing fee is less than twenty-five dollars, the fee shall  
19 be forfeited and (b) an examination fee shall not be returned.

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

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

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

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

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

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

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



1 ~~requirements, and~~

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

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

6 ~~71-163~~ (1) The Professional and Occupational  
 7 Credentialing Cash Fund is created. Except as provided in  
 8 ~~sections 71-172.02 and section 71-17,113,~~ the fund shall consist of  
 9 all fees, gifts, grants, and other money, excluding fines and civil  
 10 penalties, received or collected by the department under sections  
 11 ~~71-162 to 71-162.05.~~ 51 to 56 of this act.

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

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

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

25 Sec. 58. Section 71-111, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-111~~ (1) The State Board of Health shall appoint  
3 members to the ~~professional~~ boards designated in section ~~71-112~~ ~~for~~  
4 ~~each of the professions under the Uniform Licensing Law-~~ 67 of this  
5 act except the Board of Emergency Medical Services and the Water  
6 Well Standards and Contractors' Licensing Board.

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

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

13 ~~71-117~~ ~~The regular~~ (1) Any person who desires to be  
14 considered for an appointment to a board appointed by the State  
15 Board of Health and who possesses the necessary qualifications for  
16 such appointment may apply in a manner specified by the State  
17 Board of Health. The State Board of Health shall consider such  
18 applications and may appoint any qualified person so applying to  
19 the appropriate board.

20 (2) A state association or society, or its managing  
21 board, for each profession may submit each year to the State Board  
22 of Health a list of five persons of recognized ability in such  
23 profession who have the qualifications prescribed for professional  
24 members of the professional board for that particular profession.  
25 Each professional member of the Board of Pharmacy shall be the

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

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

14           ~~71-118~~ (1) The State Board of Health shall have power  
15 to remove from office at any time any member of a professional  
16 board for which it appoints the membership, after a public hearing  
17 pursuant to the provisions of the Administrative Procedure Act, for  
18 physical or mental incapacity to carry out the duties of a board  
19 member, for continued neglect of duty, for incompetency, for acting  
20 beyond the individual member's scope of authority, for malfeasance  
21 in office, for not maintaining the qualifications established in  
22 sections 64 and 65 of this act, for any cause for which a  
23 credential in the profession or business involved may be suspended  
24 or revoked under section ~~71-147 or 71-148~~, 78 or 79 of this act or  
25 for a lack of a credential in the profession or business involved.

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

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

7           ~~71-112.03 (1)~~ The purpose of each professional board  
8 is to: (1) Provide for the health, safety, and welfare of  
9 the citizens; (2) insure that licensees or certificate holders  
10 serving the public meet minimum standards of proficiency and  
11 competency; and (3) control the profession in the interest of  
12 consumer protection protect the health, safety, and welfare of the  
13 public as prescribed in the Uniform Credentialing Act.

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

23           (3) Each board may appoint advisory committees or other  
24 advisory bodies as necessary for specific purposes. At least one  
25 board member shall serve on each advisory committee or body, and

1 other members may be appointed from outside the board.

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

4           ~~71-113~~ Except as otherwise provided in the Uniform  
5 Credentialing Act:

6           (1) Each ~~professional~~ board shall consist of four  
7 members;

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

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

18           ~~(2)(a) In audiology and speech-language pathology the~~  
19  ~~board shall consist of five members, including at least one public~~  
20  ~~member, (b) in dentistry the board shall consist of ten members,~~  
21  ~~including at least two public members, (c) in medicine and surgery~~  
22  ~~the board shall consist of eight members, including at least two~~  
23  ~~public members, (d) in pharmacy the board shall consist of five~~  
24  ~~members, including at least one public member, (e) in psychology~~  
25  ~~the board shall consist of seven members, including at least two~~

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

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

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

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

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

22           (7) Two of the eight professional members of the Board  
23 of Dentistry shall be dentists who are officials or members of the  
24 instructional staff of an accredited school or college of dentistry  
25 in this state, and two of the members of the board shall be dental

1 ~~hygienists licensed under the Uniform Licensing Law.~~

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

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

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

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

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

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

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

24           ~~(3)~~ The members of the Board of Medicine and Surgery  
25 shall be appointed as follows: Within thirty days after May 25,



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

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

1 each.

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

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

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

24           ~~(8) The initial members of the Board of Mental Health~~  
25 ~~Practice appointed from the Board of Examiners in Social Work~~

1 and the Board of Examiners in Professional Counseling, as such  
2 boards existed immediately prior to September 1, 1994, shall serve  
3 until the expiration of the terms they would have served on  
4 their respective boards. One initial public member and one initial  
5 marriage and family therapist shall hold office until December 1  
6 of the fourth year following September 1, 1994, and one initial  
7 public member and one initial marriage and family therapist shall  
8 hold office until December 1 of the fifth year following September  
9 1, 1994.

10 ~~(9)~~ The initial members of the Board of Alcohol and  
11 Drug Counseling shall be appointed within ninety days after July  
12 1, 2004, to hold office as follows: Of the six alcohol and drug  
13 counselors, one shall hold office until April 1, 2006, two until  
14 April 1, 2007, one until April 1, 2008, one until April 1,  
15 2009, and one until April 1, 2010, as designated at the time of  
16 appointment; the person who is a psychiatrist, psychologist, or  
17 mental health practitioner shall hold office until April 1, 2008,  
18 and of the two public members, one shall hold office until April  
19 1, 2009, and one until April 1, 2010, as designated at the time of  
20 appointment.

21 ~~(10)~~ Except as otherwise specifically provided, the (2)  
22 The term of each member provided for in this section shall commence  
23 on the first day of December following the expiration of the  
24 term of the member whom such person succeeds except as otherwise  
25 provided in the act. and shall be rotated in such a manner that no

1 more than one professional member shall retire during any year in  
2 which a term expires unless the number of members on a board makes  
3 it impractical to do so.

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

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

17           ~~71-114~~ (1) A professional member of a board appointed  
18 under the Uniform Licensing Law prior to the operative date of this  
19 section shall remain subject to the requirements of the original  
20 appointment until reappointed under the Uniform Credentialing Act.  
21 Except as otherwise provided in subsections ~~(3)~~ and ~~(5)~~ of this  
22 section, the Uniform Credentialing Act, every professional member  
23 of a professional board appointed after the operative date of  
24 this section shall have held and maintained an active credential  
25 and be and have been actively engaged in the practice of his

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

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

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

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

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

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

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

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

24           (3) Have attained the age of nineteen years;

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

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

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

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

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

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

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

20           Sec. 66. For professions coming within the scope of the  
21 Uniform Credentialing Act for the first time:

22           (1) A professional member of a board shall not be  
23 required to have held and maintained an active credential for a  
24 period of five years just preceding his or her appointment. Members  
25 appointed during the first five years after a profession comes

1 within the scope of the act shall be required to meet the minimum  
2 qualifications for credentialing and shall, insofar as possible,  
3 meet the requirements as to years of practice in this state  
4 otherwise provided by section 64 of this act;

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

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

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

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

24 71-112 (1) Professional boards under the Uniform  
25 Licensing Law Boards shall be designated as follows:



- 1           (a) Board of Advanced Practice Registered Nurses;
- 2           (b) Board of Alcohol and Drug Counseling;
- 3           (c) Board of Athletic Training;
- 4           (d) Board of Audiology and Speech-Language Pathology;
- 5           (e) Board of Chiropractic;
- 6           (f) Board of Cosmetology, Electrology, Esthetics, Nail  
7 Technology, and Body Art;
- 8           (g) Board of Dentistry;
- 9           (h) Board of Emergency Medical Services;
- 10          (i) Board of Registered Environmental Health Specialists;
- 11          (j) Board of Funeral Directing and Embalming;
- 12          (k) Board of Hearing Aid Instrument Dispensers and  
13 Fitters;
- 14          (l) Board of Massage Therapy;
- 15          (m) Board of Medical Nutrition Therapy;
- 16          (n) Board of Medical Radiography;
- 17          (o) Board of Medicine and Surgery;
- 18          (p) Board of Mental Health Practice;
- 19          (q) Board of Nursing;
- 20          (r) Board of Nursing Home Administration;
- 21          (s) Board of Occupational Therapy Practice;
- 22          (t) Board of Optometry;
- 23          (u) Board of Pharmacy;
- 24          (v) Board of Physical Therapy;
- 25          (w) Board of Podiatry;

- 1            (x) Board of Psychology;
- 2            (y) Board of Respiratory Care Practice;
- 3            (z) Board of Veterinary Medicine and Surgery; and
- 4            (aa) Water Well Standards and Contractors' Licensing
- 5 Board.

- 6            ~~(a) For medicine and surgery, acupuncture, and~~
- 7 ~~osteopathic medicine and surgery, Board of Medicine and Surgery;~~
- 8            ~~(b) For athletic training, Board of Athletic Training;~~
- 9            ~~(c) For respiratory care, Board of Respiratory Care~~
- 10 ~~Practice;~~
- 11            ~~(d) For chiropractic, Board of Chiropractic;~~
- 12            ~~(e) For dentistry and dental hygiene, Board of Dentistry;~~
- 13            ~~(f) For optometry, Board of Optometry;~~
- 14            ~~(g) For massage therapy, Board of Massage Therapy;~~
- 15            ~~(h) For physical therapy, Board of Physical Therapy;~~
- 16            ~~(i) For pharmacy, Board of Pharmacy;~~
- 17            ~~(j) For audiology and speech-language pathology, Board of~~
- 18 ~~Audiology and Speech-Language Pathology;~~
- 19            ~~(k) For medical nutrition therapy, Board of Medical~~
- 20 ~~Nutrition Therapy;~~
- 21            ~~(l) For funeral directing and embalming, Board of Funeral~~
- 22 ~~Directing and Embalming;~~
- 23            ~~(m) For podiatry, Board of Podiatry;~~
- 24            ~~(n) For psychology, Board of Psychologists;~~
- 25            ~~(o) For veterinary medicine and surgery, Board of~~

1 ~~Veterinary Medicine and Surgery,~~

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

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

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

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

14 ~~71-115.01~~ The department shall adopt and promulgate rules  
 15 and regulations which may establish definitions of conflicts of  
 16 interest for members of the professional boards specified in  
 17 ~~section 71-112~~ and which may establish procedures in the case  
 18 such a conflict arises. For purposes of this section, conflict of  
 19 interest includes financial, professional, or personal obligations  
 20 that may compromise or present the appearance of compromising the  
 21 judgment of a member in the performance of his or her duties.

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

24 ~~71-120~~ Each professional board shall organize annually  
 25 at its first meeting subsequent to December 1 and shall select

1 a chairperson, a vice-chairperson, and a secretary from its own  
2 membership.

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

5 ~~71-121~~ The department shall, as far as practicable,  
6 provide for the conducting of the business of the ~~professional~~  
7 boards by mail and may hold meetings by teleconference or  
8 videoconference subject to the Open Meetings Act. Any official  
9 action or vote of the members of a ~~professional~~ board taken by mail  
10 shall be preserved in the records of the department and shall be  
11 ~~embodied in the proper minute book~~ recorded in the board's minutes  
12 by the department.

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

15 ~~71-122~~ Each member of a ~~professional~~ board shall, in  
16 addition to necessary traveling and lodging expenses, receive  
17 a per diem for each day actually engaged in the discharge of  
18 his or her duties, including compensation for the time spent in  
19 traveling to and from the place of conducting ~~the examination,~~  
20 ~~and, with the exception of board members who are public members,~~  
21 ~~for a reasonable number of days for the preparation of examination~~  
22 ~~questions and the reading of the answer papers, in addition to~~  
23 ~~the time actually spent in conducting the examination.~~ business.  
24 Traveling and lodging expenses shall be on the same basis as  
25 provided in sections 81-1174 to 81-1177. The compensation per day

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

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

12 ~~71-124~~ Each professional board may select one or more  
 13 of its members to attend the annual meeting of the national  
 14 organization of state ~~examining~~ boards of such profession or other  
 15 related meetings. Any member so selected shall receive his or her  
 16 necessary traveling and lodging expenses in attending such ~~meeting~~  
 17 meetings on the same basis as provided in sections 81-1174 to  
 18 81-1177. ~~if there are funds available belonging to that board.~~

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

21 ~~71-161.19~~ No member of a professional board, ~~for any~~  
 22 ~~profession or occupation credentialed by the department pursuant to~~  
 23 ~~Chapter 71,~~ no expert retained by such board, the department and no  
 24 member of such a profession ~~or occupation~~ who provides consultation  
 25 to or testimony for the department shall be liable in damages to

1 any person for slander, libel, defamation of character, breach of  
2 any privileged communication, or otherwise for any action taken or  
3 recommendation made within the scope of the functions of such board  
4 or expert or the consultation or testimony given by such person, if  
5 such board member, expert, or person acts without malice and in the  
6 reasonable belief that such action, recommendation, consultation,  
7 or testimony is warranted by the facts known to him or her after a  
8 reasonable effort is made to obtain the facts on which such action  
9 is taken, recommendation is made, or consultation or testimony is  
10 provided.

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

13 ~~71-121.01~~ The department shall be responsible for the  
14 general administration of the activities of each of the boards, as  
15 defined in the Advanced Practice Registered Nurse Licensure Act,  
16 the Certified Registered Nurse Anesthetist Act, the Clinical Nurse  
17 Specialist Practice Act, the Nebraska Certified Nurse Midwifery  
18 Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act,  
19 the Nurse Practitioner Act, the Occupational Therapy Practice Act,  
20 and sections 71-4701 to 71-4719 and 71-6053 to 71-6068 and the  
21 boards covered by the scope of the Uniform Licensing Law and named  
22 in section 71-102. The cost of operation and administration of the  
23 boards shall be paid from fees, gifts, grants, and other money  
24 credited to the General Fund and the Professional and Occupational  
25 Credentialing Cash Fund. ~~The Director of Regulation and Licensure~~

1 shall determine the proportionate share of this cost to be paid  
 2 from the fees of the respective boards, except that no fees shall  
 3 be paid for such purpose from the fund without the prior approval  
 4 of the boards concerned. The director's determinations shall become  
 5 final when approved by the respective boards and the department and  
 6 shall be valid for one fiscal year only.

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

9           ~~71-172.01~~ (1) The Department of Health and Human  
 10 Services Regulation and Licensure department may contract with  
 11 the Department of Health and Human Services to provide a  
 12 Licensee Assistance Program to credential holders regulated by the  
 13 Department of Health and Human Services Regulation and Licensure.  
 14 department. The program shall be limited to providing education,  
 15 referral assistance, and monitoring of compliance with treatment  
 16 of habitual intoxication or dependence for abuse of, dependence  
 17 on, or active addiction to alcohol, any controlled substance, or  
 18 any mind-altering substance and shall be limited to voluntary  
 19 participation by credential holders.

20           (2)(a) Participation in the program shall be  
 21 confidential, except that if any evaluation by the program  
 22 determines that the intoxication or abuse, dependence, or active  
 23 addiction may be of a nature which constitutes a danger to the  
 24 public health and safety by the person's continued practice or  
 25 if the person fails to comply with any term or condition of a

1 treatment plan, the program shall report the same to the ~~Director~~  
2 ~~of Regulation and Licensure~~. director.

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

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

16 ~~(3)~~ (4) No person who makes such a report ~~of intoxication~~  
17 ~~or dependence~~ to the program or from the program to the department  
18 shall be liable in damages to any person for slander, libel,  
19 defamation of character, breach of any privileged communication, or  
20 other criminal or civil action of any nature, whether direct or  
21 derivative, for making such report or providing information to the  
22 program or department in accordance with this section.

23 ~~(4)~~ (5) Any person who contacts the department for  
24 information on or assistance in obtaining referral or treatment  
25 of himself or herself or any other person credentialed by the



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

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

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

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

24 ~~71-161.01~~ For purposes of sections 78, 79, and 84 of this  
25 act:

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

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

14           (3) Pattern of incompetent or negligent conduct means a  
15 continued course of incompetent or negligent conduct in performing  
16 the duties of the profession. Pursuant to such sections, a license,  
17 permit, certificate, or registration, including one of a temporary  
18 nature, may be denied, refused renewal, limited, suspended, or  
19 revoked or have other disciplinary measures taken against it in  
20 accordance with section 71-155 when the time for appeal of the  
21 conviction has elapsed or the conviction has been affirmed on  
22 appeal or an order granting probation is made suspending the  
23 imposition or the execution of sentence, irrespective of any  
24 subsequent order under any statute allowing such person to withdraw  
25 his or her plea of guilty, nolo contendere, or non vult contendere

1 and to enter a plea of not guilty, or setting aside the verdict of  
 2 guilty or the conviction, or releasing the person from probation,  
 3 or dismissing the accusation, information, or indictment.

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

6 ~~71-147~~ A license, certificate, or registration Except as  
 7 otherwise provided in sections 119 to 123 of this act, a credential  
 8 to practice a profession may be denied, refused renewal, limited,  
 9 revoked, or suspended or have other disciplinary measures taken  
 10 against it in accordance with section ~~71-155~~ when the applicant,  
 11 licensee, certificate holder, or registrant is guilty of any of the  
 12 following acts or offenses: 85 or 86 of this act on any of the  
 13 following grounds:

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

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

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

24 (4) Failure to comply with a treatment program or an  
 25 aftercare program, including, but not limited to, a program entered

1 into under the Licensee Assistance Program established pursuant to  
 2 section ~~71-172.01~~, 75 of this act;

3 ~~(4)~~ (5) Conviction of (a) a misdemeanor or felony under  
 4 ~~state law,~~ Nebraska law or federal law, ~~or the law of another or~~  
 5 (b) a crime in any jurisdiction ~~and~~ which, if committed within  
 6 this state, would have constituted a misdemeanor or felony under  
 7 ~~state~~ Nebraska law and which has a rational connection with  
 8 the ~~applicant's, licensee's, certificate holder's, or registrant's~~  
 9 fitness or capacity of the applicant or credential holder to  
 10 practice the profession;

11 ~~(5)~~ (6) Practice of the profession (a) fraudulently, (b)  
 12 beyond its authorized scope, (c) with ~~manifest incapacity,~~ ~~(d)~~ with  
 13 gross incompetence or gross negligence, or ~~(e)~~ (d) in a pattern of  
 14 incompetent or negligent conduct; ~~Pattern of negligent conduct~~  
 15 ~~shall mean a continued course of negligent conduct in performing~~  
 16 ~~the duties of the profession;~~

17 ~~(6)~~ (7) Practice of the profession while the ability to  
 18 practice is impaired by alcohol, controlled substances, ~~narcotic~~  
 19 drugs, mind-altering substances, physical disability, mental  
 20 disability, or emotional disability;

21 ~~(7)~~ (8) Physical or mental incapacity to practice the  
 22 profession as evidenced by a legal ~~adjudication~~ judgment or a  
 23 determination ~~thereof~~ by other lawful means;

24 ~~(8)~~ (9) Illness, deterioration, or disability that  
 25 impairs the ability to practice the profession;

1           ~~(10)~~ (10) Permitting, aiding, or abetting the practice of a  
2 profession or the performance of activities requiring a ~~license,~~  
3 ~~certificate,~~ ~~or registration~~ credential by a person not ~~licensed,~~  
4 ~~certified,~~ ~~or registered~~ credentialed to do so;

5           ~~(9)~~ (11) Having had his or her ~~license,~~ ~~certificate,~~  
6 ~~or registration~~ credential denied, refused renewal, limited,  
7 suspended, ~~or revoked,~~ or having had such ~~license,~~ ~~certificate,~~ ~~or~~  
8 ~~registration~~ disciplined in any other manner in accordance with  
9 ~~section 71-155~~ similar to section 96 of this act by another state  
10 or jurisdiction to practice the particular profession involved,  
11 based upon acts by the applicant, licensee, certificate holder,  
12 ~~or registrant~~ or credential holder similar to acts described in  
13 this section; ~~-~~ A certified copy of the record of denial, refusal  
14 of renewal, limitation, suspension, or revocation of a ~~license,~~  
15 ~~certificate,~~ ~~or registration~~ or the taking of other disciplinary  
16 measures against it by another state or jurisdiction shall be  
17 conclusive evidence;

18           ~~(10)~~ Unprofessional conduct;

19           ~~(11)~~ (12) Use of untruthful, deceptive, or misleading  
20 statements or improbable statements or flamboyant, exaggerated,  
21 or extravagant claims, concerning such licensee's, certificate  
22 holder's, or registrant's professional excellence or abilities, in  
23 advertisements;

24           ~~(12)~~ (13) Conviction of fraudulent or misleading  
25 advertising or conviction of a violation of the Uniform Deceptive

1 Trade Practices Act;

2 ~~(13)~~ (14) Distribution of intoxicating liquors,  
3 controlled substances, or drugs for any other than lawful purposes;

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

10 ~~(15)~~ (16) Unlawful invasion of the field of practice  
11 of any profession mentioned in the Uniform Licensing Law which  
12 the licensee, certificate holder, or registrant is not licensed,  
13 certified, or registered regulated by the Uniform Credentialing Act  
14 which the credential holder is not credentialed to practice;

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

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

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

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

24 ~~(20)~~ (18) Failure to file a report required by section  
25 124 or 125 of this act; 71-168;

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

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

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

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

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

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

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

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

22           (22) Failure to pay an administrative penalty; or

23           (23) Unprofessional conduct as defined in section 79 of  
24 this act.

25           Sec. 79. Section 71-148, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-148~~ For purposes of section ~~71-147~~, 78 of this act,  
3 unprofessional conduct means any departure from or failure to  
4 conform to the standards of acceptable and prevailing practice of  
5 a profession ~~or occupation~~ or the ethics of the profession, ~~or~~  
6 ~~occupation~~, regardless of whether a person, ~~patient~~, consumer, or  
7 entity is injured, or conduct that is likely to deceive or defraud  
8 the public or is detrimental to the public interest, including, but  
9 not limited to:

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

14 ~~(2) (1) Receipt of fees on the assurance that a~~  
15 ~~manifestly an incurable disease can be permanently cured;~~

16 ~~(3) (2) Division of fees, or agreeing to split or divide~~  
17 ~~the fees, received for professional services with any person for~~  
18 ~~bringing or referring a patient, consumer other than (a) with a~~  
19 ~~partner or employee of the applicant or credential holder or his~~  
20 ~~or her office or clinic, (b) with a landlord of the applicant or~~  
21 ~~credential holder pursuant to a written agreement that provides~~  
22 ~~for payment of rent based on gross receipts, (c) with a former~~  
23 ~~partner or employee of the applicant or credential holder based~~  
24 ~~on a retirement plan or separation agreement, or (d) by a person~~  
25 ~~credentialed pursuant to the Water Well Standards and Contractors'~~



1 Practice Act;

2 ~~(4)~~ (3) Obtaining any fee for professional services by  
3 fraud, deceit, or misrepresentation, including, but not limited to,  
4 falsification of third-party claim documents;

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

7 ~~(6)~~ (5) Assisting in the care or treatment of a ~~patient~~  
8 consumer without the consent of such ~~patient~~ consumer or his or her  
9 legal representative;

10 ~~(7)~~ (6) Use of any letters, words, or terms, either as  
11 a prefix, affix, or suffix, on stationery, in advertisements, or  
12 otherwise, indicating that such person is entitled to practice a  
13 ~~system or mode of healing~~ profession for which he or she is not  
14 ~~licensed, certified, or registered;~~ credentialed;

15 ~~(8)~~ (7) Performing, procuring, or aiding and abetting in  
16 the performance or procurement of a criminal abortion;

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

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

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

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

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

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

8           ~~(15)~~ The intentional and knowing performance of a  
9 partial-birth abortion as defined in subdivision ~~(9)~~ of section  
10 28-326, unless such procedure is necessary to save the life of the  
11 mother whose life is endangered by a physical disorder, physical  
12 illness, or physical injury, including a life-endangering physical  
13 condition caused by or arising from the pregnancy itself;

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

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

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

22           ~~(19)~~ (10) Failure to keep and maintain adequate records  
23 of treatment or service;

24           ~~(20)~~ (11) Prescribing, administering, distributing,  
25 dispensing, giving, or selling any controlled substance or other

1 drug recognized as addictive or dangerous for other than a  
2 medically accepted therapeutic purpose;

3 ~~(21)~~ (12) Prescribing any controlled substance to oneself  
4 ~~or, except in the case of a medical emergency, to one's spouse or~~  
5 ~~child (a) oneself or (b) except in the case of a medical emergency~~  
6 ~~(i) one's spouse, (ii) one's child, (iii) one's parent, (iv) one's~~  
7 ~~sibling, or (v) any other person living in the same household as~~  
8 ~~the prescriber;~~

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

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

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

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

22 Sec. 80. For purposes of subdivision (11) of section 78  
23 of this act, a certified copy of the record of denial, refusal  
24 of renewal, limitation, suspension, or revocation of a license,  
25 certificate, registration, or other similar credential or the

1 taking of other disciplinary measures against it by another state  
2 or jurisdiction shall be conclusive evidence of a violation.

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

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

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

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

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

24           (4) Failure to allow an agent or employee of the  
25 department access to the business for the purposes of inspection,

1 investigation, or other information collection activities necessary  
2 to carry out the duties of the department; or

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

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

9 71-147.02 (1) The department may temporarily suspend or  
10 temporarily limit the license of any licensee, the certificate  
11 of any certificate holder, or the registration of any registrant  
12 any credential issued by the department without notice or a  
13 hearing if the director determines that there is reasonable cause  
14 to believe that grounds exist under section 71-147 78 or 82  
15 of this act for the revocation, suspension, or limitation of  
16 the license, certificate, ~~or registration~~ credential and that  
17 the licensee's, certificate holder's, ~~or registrant's~~ credential  
18 holder's continuation in practice or operation would constitute an  
19 imminent danger to the public health and safety. Simultaneously  
20 with any such action, the department shall institute proceedings  
21 for a hearing on the grounds for revocation, suspension,  
22 or limitation of the license, certificate, ~~or registration.~~  
23 credential. Such hearing shall be held no later than fifteen days  
24 from the date of such temporary suspension or temporary limitation  
25 of the license, certificate, ~~or registration.~~ credential.

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

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

19           Sec. 84. If an applicant for a credential or a credential  
20 holder is convicted of an offense for which the credential may  
21 be denied or refused renewal or have other disciplinary measures  
22 taken against it in accordance with section 96 of this act,  
23 such denial, refusal of renewal, or disciplinary measures may be  
24 taken when the time for appeal of the conviction has elapsed or  
25 the conviction has been affirmed on appeal or an order granting

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

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

10           ~~71-150 (1) The Director of Regulation and Licensure shall~~  
11 ~~have jurisdiction of proceedings (a) to deny the issuance of a~~  
12 ~~license, certificate, or registration, (b) to refuse renewal of~~  
13 ~~a license, certificate, or registration, and (c) to discipline a~~  
14 ~~licensee, certificate holder, or registrant.~~

15           ~~(2) To deny or refuse renewal of a license, certificate,~~  
16 ~~or registration, credential, the department shall send notify~~  
17 ~~the applicant, licensee, certificate holder, or registrant, by~~  
18 ~~registered or certified mail, notice setting forth or credential~~  
19 ~~holder in writing of the action taken and the reasons for~~  
20 ~~the determination. The denial or refusal to renew shall become~~  
21 ~~final thirty days after mailing the notice unless the applicant,~~  
22 ~~licensee, certificate holder, or registrant or credential holder,~~  
23 ~~within such thirty-day period, gives written notice of his or her~~  
24 ~~desire ~~for~~ requests a hearing in writing. The hearing shall be~~  
25 ~~conducted in accordance with the Administrative Procedure Act.~~

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

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

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

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

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

25           (3) The proceeding shall be summary in its nature and



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

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

12           ~~71-152~~ The following rules shall govern the form of the  
13 petition in cases brought pursuant to section ~~71-150+~~ 86 of this  
14 act:

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

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

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

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

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

3           ~~71-153~~ Upon the presentation of the petition to the  
4 ~~Director of Regulation and Licensure,~~ director, he or she shall  
5 make an order fixing the time and place for the hearing, which  
6 shall not be less than thirty nor more than sixty days thereafter.

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

9           ~~71-154~~ Notice of the filing of a petition pursuant to  
10 section ~~71-150~~ 86 of this act and of the time and place of  
11 hearing shall be served upon the ~~licensee, certificate holder, or~~  
12 ~~registrant~~ credential holder at least ten days before the hearing.  
13 The notice may be served by any method specified in section  
14 25-505.01, or the director may permit substitute or constructive  
15 service as provided in section 25-517.02 when service cannot be  
16 made with reasonable diligence by any of the methods specified in  
17 section 25-505.01.

18           Sec. 90. Section 71-161.03, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           ~~71-161.03~~ (1) Any petition filed with the ~~Director of~~  
21 ~~Regulation and Licensure~~ pursuant to section ~~71-150~~ 86 of this  
22 act may, at any time prior to the entry of any order by the  
23 director, be disposed of by stipulation, agreed settlement, consent  
24 order, or similar method as agreed to between the parties. A  
25 proposed settlement shall be submitted and considered in camera

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

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

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

3           ~~71-156 In case the licensee, certificate holder, or~~  
4 ~~registrant~~ If a credential holder fails to appear, either in  
5 person or by counsel, at the time and place designated in the  
6 notice required by section ~~71-154, 89~~ of this act, the ~~Director~~  
7 ~~of Regulation and Licensure~~ director, after receiving satisfactory  
8 evidence of the truth of the charges, shall order the ~~license,~~  
9 ~~certificate, or registration~~ credential revoked or suspended or  
10 shall order any or all of the other appropriate disciplinary  
11 measures authorized by section ~~71-155~~ 96 of this act to be  
12 taken against the ~~licensee, certificate holder, or registrant.~~  
13 credential.

14           Sec. 92. If the director determines upon completion of  
15 a hearing under section 86 of this act that a violation has  
16 occurred, the director may, at his or her discretion, consult with  
17 the appropriate board concerning sanctions to be imposed or terms  
18 and conditions of the sanctions. When the director consults with  
19 a board, the credential holder and the Attorney General shall be  
20 provided with a copy of the director's request, the recommendation  
21 of the board, and an opportunity to respond in such manner as the  
22 director determines. The director shall have the authority through  
23 entry of an order to exercise in his or her discretion any or all  
24 of the sanctions authorized under section 96 of this act.

25           Sec. 93. If the petition is brought with respect to

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

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

12           ~~71-157~~ If the order issued pursuant to section ~~71-156~~  
13 regarding discipline of a credential is adverse to the credential  
14 holder, the costs shall be charged to him or her as in ordinary  
15 civil actions in the district court, but if the state is the  
16 unsuccessful party, the costs shall be paid out of any money in the  
17 Professional and Occupational Credentialing Cash Fund available for  
18 that purpose. Witness fees and costs may be taxed according to the  
19 rules prevailing in the district court.

20           Sec. 95. Section 71-158, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           ~~71-158~~ All costs accrued at the instance of the state  
23 when it is the successful party in a proceeding to discipline  
24 a credential, which the Attorney General certifies cannot be  
25 collected from the defendant, shall be paid out of any available

1 funds in the Professional and Occupational Credentialing Cash Fund.

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

4           71-155 ~~(1)~~ The proceeding under section 71-150 shall be  
5 summary in its nature and triable as an equity action and shall be  
6 heard by the Director of Regulation and Licensure or by a hearing  
7 officer designated by the director under rules and regulations  
8 of the department. Affidavits may be received in evidence in the  
9 discretion of the director or hearing officer. The department  
10 shall have the power to administer oaths, to subpoena witnesses  
11 and compel their attendance, and to issue subpoenas duces tecum  
12 and require the production of books, accounts, and documents in  
13 the same manner and to the same extent as the district courts  
14 of the state. Depositions may be used by either party. Upon the  
15 completion of any hearing held under this section, the director  
16 shall, if the petition is brought with respect to subdivision  
17 ~~(15)~~ of section 71-148, make findings as to whether the licensee's  
18 conduct was necessary to save the life of a mother whose life was  
19 endangered by a physical disorder, physical illness, or physical  
20 injury, including a life-endangering physical condition caused by  
21 or arising from the pregnancy itself, and shall have the authority  
22 through entry of an order to exercise in his or her discretion any  
23 or all of the following powers, irrespective of the petition:

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

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

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

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

8           ~~(e) Enter an order of suspension of the credential,~~

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

10           ~~(g) Dismiss the action.~~

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

19           ~~(3) The credentialed person shall not engage in the~~  
20           ~~practice of a profession after a credential to practice such~~  
21           ~~profession is revoked or during the time for which it is suspended.~~

22           ~~If a credential is suspended, the suspension shall be for a~~  
23           ~~definite period of time to be set by the director. The director may~~  
24           ~~provide that the credential shall be automatically reinstated upon~~  
25           ~~expiration of such period, reinstated if the terms and conditions~~

1 as set by the director are satisfied, or reinstated subject to  
 2 probation or limitations or conditions upon the practice of the  
 3 credentialed person. If such credential is revoked, such revocation  
 4 shall be for all times, except that at any time after the  
 5 expiration of two years, application may be made for reinstatement  
 6 pursuant to section 71-161.04.

7 Upon the completion of any hearing held regarding  
 8 discipline of a credential, the director may dismiss the action or  
 9 impose any of the following sanctions:

- 10 (1) Censure;  
 11 (2) Probation;  
 12 (3) Limitation;  
 13 (4) Civil penalty;  
 14 (5) Suspension; or  
 15 (6) Revocation.

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

18 71-161.02 The authority of the Director of Regulation  
 19 and Licensure to discipline a licensee, certificate holder, or  
 20 registrant by placing him or her on probation pursuant to section  
 21 71-155 shall include, but not be limited to, the following:

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

- 25 (1) ~~To require the licensee, certificate holder, or~~



1 ~~registrant~~ Require the credential holder to obtain additional  
2 professional training and to pass an examination upon the  
3 completion of the training. The examination may be written or oral  
4 or both and may be a practical or clinical examination or both or  
5 any or all of such combinations of written, oral, practical, and  
6 clinical, at the option of the director;

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

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

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

25 ~~71-155.03~~ If a civil penalty is imposed pursuant to

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

14           Sec. 99. If suspension is imposed pursuant to section  
15 96 of this act, the credential holder shall not engage in the  
16 practice of a profession during the time for which the credential  
17 is suspended. The suspension shall be for a definite period of  
18 time to be set by the director. The director may provide that the  
19 credential shall be (1) automatically reinstated upon expiration of  
20 such period, (2) reinstated if the terms and conditions as set by  
21 the director are satisfied, or (3) reinstated subject to probation  
22 or limitations or conditions upon the practice of the credential  
23 holder.

24           Sec. 100. If revocation is imposed pursuant to section 96  
25 of this act, the credential holder shall not engage in the practice

1 of the profession after a credential to practice such profession is  
2 revoked. Such revocation shall be for all times.

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

5           ~~71-155.01~~ If a chief medical officer is appointed  
6 pursuant to section 81-3201, he or she shall perform the duties of  
7 the ~~Director of Regulation and Licensure~~ director for decisions in  
8 contested cases under ~~sections 71-150, 71-153 to 71-155, 71-156,~~  
9 ~~71-161.02, 71-161.03, 71-161.07, 71-161.11 to 71-161.15, 71-161.17,~~  
10 ~~71-161.18, 71-161.20, 71-1,104, 71-1,142, 71-1,147.31, 71-1,147.44,~~  
11 ~~and 71-1,147.45.~~ the Uniform Credentialing Act other than contested  
12 cases under sections 119 to 123 of this act.

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

15           ~~71-159~~ Both parties to disciplinary proceedings under the  
16 Uniform Credentialing Act shall have the right of appeal, and the  
17 appeal shall be in accordance with the Administrative Procedure  
18 Act. The case shall be heard at a time fixed by the district court.  
19 It shall be advanced and take precedence over all other cases upon  
20 the court calendar except worker's compensation and criminal cases.

21           Sec. 103. A board may designate one of its professional  
22 members to serve as a consultant to the department in reviewing  
23 complaints and on issues of professional practice that may arise  
24 during the course of an investigation. Such consultation shall  
25 not be required for the department to evaluate a complaint or to

1 proceed with an investigation. A board may also recommend or confer  
2 with a consultant member of its profession to assist the board or  
3 department on issues of professional practice.

4       Sec. 104. (1) If the department determines that a  
5 complaint will not be investigated, the department shall notify  
6 the complainant of such determination. At the request of the  
7 complainant, the appropriate board may review the complaint and  
8 provide its recommendation to the department on whether the  
9 complaint merits investigation.

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

14       Sec. 105. (1) The department shall advise the appropriate  
15 board on the progress of investigations. If requested by the  
16 complainant, the identity of the complainant shall not be released  
17 to the board.

18       (2) When the department determines that an investigation  
19 is complete, the department shall consult with the board to obtain  
20 its recommendation for submission to the Attorney General. In  
21 making a recommendation, the board may review all investigative  
22 reports and have full access to the investigational file of the  
23 department and any previous investigational information in the  
24 files of the department on the credential holder that may be  
25 relevant to the investigation, except that (a) reports or other

1 documents of any law enforcement agency provided to the department  
2 shall not be available for board review except to the extent such  
3 law enforcement agency gives permission for release to the board  
4 and (b) reports provided by any other agency or public or private  
5 entity, which reports are confidential in that agency's or entity's  
6 possession and are provided with the express expectation that the  
7 report will not be disclosed, may be withheld from board review.

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

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

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

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

19 (4) If the department and the board disagree on the  
20 basis for investigation or if the board recommends additional  
21 investigation and the department and board disagree on the  
22 necessity of additional investigation, the matter shall be  
23 forwarded to the Attorney General for review and determination.

24 (5) All meetings of the boards or between a board and  
25 staff of the department or the Attorney General on investigatory

1 matters shall be held in closed session, including the voting  
2 of the board on any matter pertaining to the investigation or  
3 recommendation.

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

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

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

1           ~~71-171.01~~ The (1) Except as provided in subsection (2) of  
 2 this section, the department shall provide the Attorney General  
 3 with a copy of all complaints it receives and advise the  
 4 Attorney General of investigations it makes which may involve  
 5 any possible violation of statutes or rules and regulations by  
 6 ~~the credentialed person,~~ a credential holder. The Attorney General  
 7 shall then determine which, if any, statutes, rules, or regulations  
 8 ~~the credentialed person~~ credential holder has violated and the  
 9 appropriate legal action to take. The Attorney General may+ ~~(1)~~  
 10 ~~Eleet~~ (a) elect to file a petition under section ~~71-150~~ 86 of this  
 11 act or not to file a petition, (b) ~~+ (2)~~ negotiate a voluntary  
 12 surrender or voluntary limitation pursuant to section ~~71-161.11~~ ~~or~~  
 13 ~~(3)~~ 109 of this act, or (c) in cases involving a ~~technical~~ minor  
 14 or insubstantial violation, refer the matter to the appropriate  
 15 ~~professional~~ board for the opportunity to resolve the matter by  
 16 ~~issuance of a letter of concern or to recommend~~ recommending to  
 17 the Attorney General that he or she enter into an assurance of  
 18 compliance with the ~~credentialed person~~ credential holder in lieu  
 19 of filing a petition. ~~Neither a letter of concern nor an~~ An  
 20 assurance of compliance shall not constitute discipline against a  
 21 ~~credentialed person,~~ credential holder.

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

1 detection, measurement, and mitigation; water system operation; and  
 2 constructing or decommissioning water wells and installing water  
 3 well pumps and pumping equipment.

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

6           ~~71-171.02~~ Upon referral of a matter under section  
 7 ~~71-171.01~~ 107 of this act by the Attorney General, the professional  
 8 board may:

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

16           ~~(2)~~ (1) Advise the Attorney General on the content  
 17 of an agreement to serve as the basis of an assurance of  
 18 compliance. The Attorney General may contact the ~~eredentialed~~  
 19 ~~person~~ credential holder to reach, by voluntary agreement, an  
 20 assurance of compliance. The assurance shall include a statement  
 21 of the statute, rule, or regulation in question, a description of  
 22 the conduct that would violate such statute, rule, or regulation,  
 23 the assurance of the ~~eredentialed person~~ credential holder that  
 24 he or she will not engage in such conduct, and acknowledgment  
 25 by the ~~eredentialed person~~ credential holder that violation of



1 the assurance constitutes unprofessional conduct, as provided by  
2 ~~subdivision (17) of section 71-148.~~ Such assurance shall be signed  
3 by the ~~eredentialed person~~ credential holder and shall become a  
4 part of the public record of the ~~eredentialed person,~~ credential  
5 holder. The ~~eredentialed person~~ credential holder shall not be  
6 required to admit to any violation of the law, and the assurance  
7 shall not be construed as such an admission; or

8 ~~(3)~~ (2) Recommend that the Attorney General file a  
9 petition under section ~~71-150,~~ 86 of this act.

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

12 ~~71-161.11~~ Any license, permit, certificate, or  
13 registration issued by the department pursuant to Chapter 28,  
14 article 4, or Chapter 71 may be voluntarily surrendered to the  
15 department by the holder permanently, for an indefinite period of  
16 time to be restored at the discretion of the department, or for  
17 a specific and definite period of time as agreed to between the  
18 holder and the department with such license, permit, certificate,  
19 or registration to be automatically restored upon the expiration  
20 of such period of time. Such former holder shall not engage in  
21 any of the practices or activities for which such license, permit,  
22 certificate, or registration is required during the period of  
23 time for which it has been surrendered, shall be considered as  
24 unlicensed during such period of time, and shall not be required to  
25 pay any fees during such period of time. Any holder of a license,

1 ~~permit, certificate, or registration issued by the department~~  
2 ~~pursuant to Chapter 28, article 4, or Chapter 71 may agree to~~  
3 ~~a voluntary limitation of such license, permit, certificate, or~~  
4 ~~registration. Such limitation may be placed upon the right of~~  
5 ~~the licensee to practice the profession to such extent, for such~~  
6 ~~time, and under such conditions as agreed to by the director~~  
7 ~~and the licensee. All requirements and procedures relative to the~~  
8 ~~validity of a voluntary limitation of practice statement shall~~  
9 ~~be identical to those outlined in this section for a voluntary~~  
10 ~~surrender statement. Violation of any of the conditions of the~~  
11 ~~voluntary limitation of practice statement by the holder shall~~  
12 ~~be due cause for the refusal of renewal of or the suspension or~~  
13 ~~revocation of the license, permit, certificate, or registration by~~  
14 ~~the department.~~

15 (1) A credential holder may submit to the department an  
16 offer to voluntarily surrender or limit any credential issued by  
17 the department pursuant to the Uniform Credentialing Act. Any such  
18 offer may be made to surrender or limit the credential permanently,  
19 for an indefinite period of time, or for a specific or definite  
20 period of time. The offer shall be made in writing and shall  
21 include (a) the reason for the offer of voluntary surrender or  
22 limitation, (b) whether the offer is for a permanent, indefinite,  
23 or definite period of time, and (c) any terms and conditions that  
24 the credential holder wishes to have the department consider and  
25 apply to the voluntary surrender or limitation of the credential.

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

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

16           (4) In all instances, the decision shall be issued in  
17 the form of a written order by the director. The order shall  
18 be issued within thirty days after receipt of the offer of  
19 voluntary surrender or limitation and shall specify (a) whether  
20 the department accepts or rejects the offer of voluntary surrender  
21 and (b) (i) the terms and conditions under which the voluntary  
22 surrender is accepted or (ii) the basis for a rejection of an  
23 offer of voluntary surrender. The terms and conditions governing  
24 the acceptance of a voluntary surrender shall include, but not be  
25 limited to, the duration of the surrender, whether the credential

1 holder may apply to have the credential reinstated, and any terms  
2 and conditions for any such reinstatement.

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

7 (6) Violation of any of the terms and conditions of a  
8 voluntary surrender or limitation by the credential holder shall  
9 be due cause for the refusal of renewal of the credential, for  
10 the suspension or revocation of the credential, or for refusal to  
11 restore the credential.

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

14 ~~71-161.13~~ (1) When any complaint has been filed with the  
15 department ~~has received a complaint or report~~ by any person or any  
16 report has been made to the ~~Director of Regulation and Licensure~~  
17 director by the Licensee Assistance Program under section ~~71-172.01~~  
18 75 of this act alleging that an applicant for a credential or a  
19 person credentialed to practice any profession ~~or occupation~~ in  
20 the state regulated by the department pursuant to Chapter 71 is  
21 suffering from ~~habitual intoxication or dependence, physical or~~  
22 mental ~~abuse of, dependence on, or active addiction to alcohol,~~  
23 any controlled substance, or any mind-altering substance that  
24 impairs the ability to practice the profession or ~~illness, or~~  
25 physical ~~or mental~~ deterioration, or disability that impairs the

1 ability to practice the profession, the ~~Director of Regulation and~~  
2 ~~Licensure~~ director shall investigate such complaint to determine if  
3 any reasonable cause exists to question the qualification of the  
4 applicant or ~~eredentialed person~~ credential holder to practice or  
5 to continue to practice such profession.

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

19 (3) If ~~and if~~ such board agrees that reasonable  
20 cause exists to question the qualification of such applicant or  
21 ~~eredentialed person,~~ credential holder, the board shall appoint  
22 a committee of three qualified physicians or other qualified  
23 professionals to examine the applicant or ~~eredentialed person~~  
24 credential holder and to report their findings and conclusions  
25 to the board. The cost of the examination shall be treated as

1 a base cost of credentialing under section 52 of this act. The  
2 board shall then consider the findings and the conclusions of the  
3 physicians or other qualified professionals and any other evidence  
4 or material which may be submitted to that board by the applicant  
5 ~~or credentialed person,~~ credential holder, by the director, or  
6 by any other person and shall then determine if the applicant or  
7 ~~eredentialed person~~ credential holder is qualified to practice or  
8 to continue to practice such profession ~~or occupation~~ in the State  
9 of Nebraska.

10 (4) If such board finds the applicant or ~~eredentialed~~  
11 ~~person~~ credential holder to be not qualified to practice or to  
12 continue to practice such profession ~~or occupation~~ because of  
13 ~~habitual intoxication or dependence,~~ physical or mental abuse of,  
14 dependence on, or active addiction to alcohol, any controlled  
15 substance, or any mind-altering substance that impairs the ability  
16 to practice the profession or illness, ~~or physical or mental~~  
17 ~~deterioration,~~ or disability that impairs the ability to practice  
18 the profession, the board shall so certify that fact to the  
19 director with a recommendation for the denial, refusal of renewal,  
20 limitation, suspension, or revocation of such credential. The  
21 director shall thereupon deny, refuse renewal of, suspend, or  
22 revoke the credential or limit the ~~credential~~ ability of the  
23 ~~eredentialed person~~ credential holder to practice such profession  
24 ~~or occupation~~ in the state in such manner and to such extent as  
25 the director determines to be necessary for the protection of the

1 public.

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

4           ~~71-161.14~~ (1) The denial, refusal of renewal, limitation,  
5 or suspension, ~~or revocation~~ of a credential as provided in section  
6 ~~71-161.13~~ 110 of this act shall continue in effect until reversed  
7 on appeal pursuant to section 113 of this act or until the cause  
8 of such denial, refusal of renewal, limitation, or suspension,  
9 ~~or revocation~~ no longer exists and the appropriate ~~professional~~  
10 board finds, upon competent ~~medical~~ examination or evaluation by  
11 a qualified physician or ~~physicians~~, other qualified professional  
12 selected or approved by the department, that the applicant, ~~former~~  
13 ~~credentialed person~~, or ~~credentialed person~~ credential holder is  
14 qualified to engage in the practice of the profession. The cost  
15 of the examination or evaluation shall be paid by the applicant  
16 or credential holder. ~~or occupation for which he or she made~~  
17 ~~application, for which he or she was formerly credentialed, or~~  
18 ~~for which he or she was credentialed subject to limitation and~~  
19 ~~certifies that fact to the Director of Regulation and Licensure.~~

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

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

3                   ~~71-161.15~~ Refusal of an applicant or ~~credentialed person~~  
4 credential holder to submit to a physical or mental examination  
5 or chemical dependency evaluation requested by the appropriate  
6 ~~professional board or the department~~ pursuant to ~~sections 71-161.12~~  
7 ~~to 71-161.16~~ section 110 or 111 of this act to determine his or  
8 her qualifications to practice or to continue in the practice of  
9 the profession ~~or occupation~~ for which application was made or for  
10 which he or she is credentialed by the department pursuant to the  
11 ~~provisions of Chapter 71~~ shall be just cause for denial of the  
12 application or for refusal of renewal or suspension of his or her  
13 credential automatically by the director until such examination or  
14 evaluation has been made.

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

17                   ~~71-161.16~~ Any applicant, licensee, certificate holder,  
18 ~~or registrant~~ or credential holder shall have the right to appeal  
19 ~~from~~ request a hearing on an order denying, refusing renewal  
20 of, limiting, suspending, or revoking a license, certificate, ~~or~~  
21 ~~registration~~ credential to practice a profession ~~or occupation~~  
22 regulated by the Department of Health and Human Services  
23 Regulation and Licensure pursuant to Chapter 71 because of habitual  
24 ~~intoxication or dependence, physical or mental~~ abuse of, dependence  
25 on, or active addiction to alcohol, any controlled substance, or



1 any mind-altering substance that impairs the ability to practice  
2 the profession or illness, ~~or physical or mental~~ deterioration, or  
3 disability that impairs the ability to practice the profession.

4 Such ~~appeal~~ hearing shall be conducted in accordance with the  
5 Administrative Procedure Act. The denial, refusal of renewal,  
6 limitation, suspension, or revocation of a credential as provided  
7 in section 110 of this act shall continue in effect until reversed  
8 on appeal unless otherwise disposed of pursuant to section 111 of  
9 this act.

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

12           ~~71-164~~ Any person engaging in the practice of any  
13 profession, ~~for which a license, certificate, or registration~~  
14 ~~is required by the Uniform Licensing Law, or business~~ without such  
15 ~~license, certificate, or registration~~ the appropriate credential  
16 may be restrained by temporary and permanent injunctions.

17           Sec. 115. It shall be prima facie evidence of practice  
18 without being credentialed when any of the following conditions  
19 exist:

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

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

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

25           (4) Service, care, or treatment records document the

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

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

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

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

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

11 ~~71-164.01~~ (1) The department may assess an administrative  
12 penalty of ten dollars per day for each day that evidence  
13 exists of practice prior to issuance, renewal after expiration,  
14 or reinstatement of a credential of an individual or entity listed  
15 in section 71-162. to practice a profession or operate a business.

16 The total penalty shall not exceed one thousand dollars.

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

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

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

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

24 ~~(d) Service, care, or treatment records document the~~  
25 ~~provision of service, care, or treatment by the person;~~

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

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

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

8           ~~(3)~~ (2) When the department assesses an administrative  
9 penalty, the department shall provide written notice of the  
10 assessment to the person. The notice shall be delivered in the  
11 manner prescribed by the department and shall include notice of the  
12 opportunity for a hearing.

13           ~~(4)~~ (3) The department shall, within thirty days after  
14 receipt, ~~transmit~~ remit an administrative penalty to the State  
15 Treasurer ~~for credit to the permanent school fund.~~ to be disposed  
16 of in accordance with Article VII, section 5, of the Constitution  
17 of Nebraska. An administrative penalty assessed and unpaid under  
18 this section shall constitute a debt to the State of Nebraska which  
19 may be collected in the manner of a lien foreclosure or sued for  
20 and recovered in a proper form of action in the name of the state  
21 in the district court of the county in which the violator resides  
22 or owns property. The department may also collect in such action  
23 attorney's fees and costs incurred directly in the collection of  
24 the administrative penalty.

25           Sec. 117. Section 71-166, Reissue Revised Statutes of

1 Nebraska, is amended to read:

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

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

19           ~~71-167~~ Any person violating any of the provisions of  
20 the Uniform Licensing Law, Credentialing Act, except as specific  
21 penalties are herein otherwise imposed in the act, shall be guilty  
22 of a Class III misdemeanor. Any person for a second violation of  
23 any of the provisions of the Uniform Licensing Law wherein act, for  
24 which another specific penalty is not expressly imposed, shall be  
25 guilty of a Class II misdemeanor.

1           Sec. 119. (1) Sections 119 to 123 of this act apply  
2 to the following professions and businesses: Asbestos abatement,  
3 inspection, project design, and training; lead-based paint  
4 abatement, inspection, project design, and training; medical  
5 radiography; radon detention, measurement, and mitigation; water  
6 system operation; and constructing or decommissioning water wells  
7 and installing water well pumps and pumping equipment.

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

18           Sec. 120. (1) A credential to practice a profession  
19 or operate a business subject to section 119 of this act may  
20 be denied, refused renewal, or have disciplinary measures taken  
21 against it in accordance with section 96 of this act on any of the  
22 grounds set out in section 78 or 82 of this act, as applicable.  
23 The department shall obtain the advice of the appropriate board  
24 in carrying out these duties. If the department determines to  
25 deny, refuse renewal of, or take disciplinary action against

1 a credential, the department shall send to the applicant or  
2 credential holder a notice to the last address of record. The  
3 notice shall state the determination of the department, the reasons  
4 for the determination, a description of the nature of the violation  
5 and the statute, rule, or regulation violated, and the nature  
6 of the action being taken. The denial, refusal to renew, or  
7 disciplinary action shall become final thirty days after the  
8 mailing of the notice unless the applicant or credential holder,  
9 during such thirty-day period, makes a written request for a  
10 hearing.

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

19 Sec. 121. A complaint submitted to the department  
20 regarding a credential holder subject to section 119 of this act  
21 shall be confidential. A person making such a complaint shall be  
22 immune from criminal or civil liability of any nature, whether  
23 direct or derivative, for filing a complaint or for disclosure of  
24 documents, records, or other information to the department.

25 Sec. 122. (1) If the department determines that an

1 emergency exists requiring immediate action against a credential  
2 subject to section 119 of this act, the department may, without  
3 notice or hearing, issue an order reciting the existence of such  
4 emergency and requiring such action be taken as the department  
5 deems necessary to meet the emergency, including, but not limited  
6 to, suspension or limitation of the credential. Such order shall  
7 become effective immediately. Any credential holder to whom such  
8 order is directed shall comply immediately. Such order shall become  
9 final ten days after mailing of the order unless the credential  
10 holder, during such period, makes a written request for a hearing.

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

20 Sec. 123. If an order issued after a hearing under  
21 section 120 or 122 of this act is adverse to the credential  
22 holder, the costs shall be charged to him or her as in ordinary  
23 civil actions in the district court, but if the department is the  
24 unsuccessful party, the department shall pay the costs. Witness  
25 fees and costs may be taxed according to the rules prevailing

1 in the district court. All costs accrued at the instance of the  
2 department when it is the successful party, which the department  
3 certifies cannot be collected from the other party, shall be paid  
4 out of any available funds in the Professional and Occupational  
5 Credentialing Cash Fund.

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

8           ~~71-168~~ (1) The department shall enforce the Uniform  
9 Licensing Law Credentialing Act and for that purpose shall make  
10 necessary investigations. Every ~~credentialed~~ person listed under  
11 ~~subsection (4) of this section~~ credential holder and every member  
12 of a ~~professional~~ board shall furnish the department such evidence  
13 as he or she may have relative to any alleged violation which is  
14 being investigated.

15           (2) Every ~~credentialed~~ person listed under ~~subsection (4)~~  
16 ~~of this section~~ credential holder shall report to the department  
17 the name of every person without a credential that he or she  
18 has reason to believe is engaged in practicing any profession or  
19 operating any business for which a credential is required by the  
20 ~~Uniform Licensing Law.~~ Credentialing Act. The department may, along  
21 with the Attorney General and other law enforcement agencies,  
22 investigate such reports or other complaints of unauthorized  
23 practice. The ~~professional~~ appropriate board may issue an order  
24 to cease and desist the unauthorized practice of such profession or  
25 the unauthorized operation of such business as a measure to obtain



1 compliance with the applicable credentialing requirements by the  
2 person prior to referral of the matter to the Attorney General for  
3 action. Practice of such profession or operation of such business  
4 without a credential after receiving a cease and desist order is a  
5 Class III felony.

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

11 ~~(4) Every credentialed person regulated under the~~  
12 ~~Advanced Practice Registered Nurse Licensure Act, the Certified~~  
13 ~~Registered Nurse Anesthetist Act, the Clinical Nurse Specialist~~  
14 ~~Practice Act, the Emergency Medical Services Act, the Licensed~~  
15 ~~Practical Nurse-Certified Act, the Nebraska Certified Nurse~~  
16 ~~Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse~~  
17 ~~Practice Act, the Nurse Practitioner Act, the Occupational Therapy~~  
18 ~~Practice Act, the Uniform Controlled Substances Act, the Uniform~~  
19 ~~Licensing Law except pharmacist interns, the Wholesale Drug~~  
20 ~~Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701~~  
21 ~~to 71-4719, or 71-6053 to 71-6068 shall, within thirty days of an~~  
22 ~~occurrence described in this subsection, report to the department~~  
23 ~~in such manner and form as the department may require by rule and~~  
24 ~~regulation whenever he or she:~~

25 ~~(a) Has first-hand knowledge of facts giving him or~~

1 her reason to believe that any person in his or her profession  
2 has committed acts indicative of gross incompetence, a pattern  
3 of negligent conduct as defined in subdivision (5)(e) of section  
4 71-147, or unprofessional conduct, may be practicing while his  
5 or her ability to practice is impaired by alcohol, controlled  
6 substances, narcotic drugs, or physical, mental, or emotional  
7 disability, or has otherwise violated such regulatory provisions  
8 governing the practice of the profession;

9 (b) Has first-hand knowledge of facts giving him or her  
10 reason to believe that any person in another profession regulated  
11 under such regulatory provisions has committed acts indicative  
12 of gross incompetence or may be practicing while his or her  
13 ability to practice is impaired by alcohol, controlled substances,  
14 narcotic drugs, or physical, mental, or emotional disability. The  
15 requirement to file a report under subdivision (a) or (b) of this  
16 subsection shall not apply (i) to the spouse of the person, (ii)  
17 to a practitioner who is providing treatment to such person in  
18 a practitioner-patient relationship concerning information obtained  
19 or discovered in the course of treatment unless the treating  
20 practitioner determines that the condition of the person may be of  
21 a nature which constitutes a danger to the public health and safety  
22 by the person's continued practice, or (iii) when a credentialed  
23 person who is chemically impaired enters the Licensee Assistance  
24 Program authorized by section 71-172.01 except as provided in such  
25 section; or

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

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

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

14           ~~(iii) Adverse judgments, settlements, or awards arising~~  
15 ~~out of professional liability claims, including settlements made~~  
16 ~~prior to suit in which the patient releases any professional~~  
17 ~~liability claim against the credentialed person, or adverse action~~  
18 ~~by an insurance company affecting professional liability coverage.~~  
19 ~~The department may define by rule and regulation what constitutes~~  
20 ~~a settlement that would be reportable when a credentialed person~~  
21 ~~refunds or reduces a fee or makes no charge for reasons related to~~  
22 ~~a patient or client complaint other than costs;~~

23           ~~(iv) Denial of a credential or other form of~~  
24 ~~authorization to practice by any state, territory, or jurisdiction,~~  
25 ~~including any military or federal jurisdiction, due to alleged~~

1 ~~incompetence, negligence, unethical or unprofessional conduct, or~~  
2 ~~physical, mental, or chemical impairment;~~

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

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

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

15 ~~(5) A report submitted by a professional liability~~  
16 ~~insurance company on behalf of a credentialed person shall~~  
17 ~~be sufficient to satisfy the credentialed person's reporting~~  
18 ~~requirement under subsection (4) of this section.~~

19 ~~(6) A report made to the department under this section~~  
20 ~~shall be confidential and treated in the same manner as complaints~~  
21 ~~and investigative files under subsection (7) of section 71-168.01.~~  
22 ~~Any person making a report to the department under this section~~  
23 ~~except those self-reporting shall be completely immune from~~  
24 ~~criminal or civil liability of any nature, whether direct or~~  
25 ~~derivative, for filing a report or for disclosure of documents,~~

1 ~~records, or other information to the department under this section.~~  
2 ~~Persons who are members of committees established under the Patient~~  
3 ~~Safety Improvement Act and sections 25-12,123, 71-2046 to 71-2048,~~  
4 ~~and 71-7901 to 71-7903 or witnesses before such committees shall~~  
5 ~~not be required to report such activities. Any person who is a~~  
6 ~~witness before a committee established under such sections shall~~  
7 ~~not be excused from reporting matters of first-hand knowledge that~~  
8 ~~would otherwise be reportable under this section only because he~~  
9 ~~or she attended or testified before such committee. Documents from~~  
10 ~~original sources shall not be construed as immune from discovery or~~  
11 ~~use in actions under subsection (4) of this section.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1           (iii) An adverse judgment, settlement, or award arising  
2 out of a professional liability claim, including a settlement made  
3 prior to suit in which the consumer releases any professional  
4 liability claim against the credentialed person, or adverse action  
5 by an insurance company affecting professional liability coverage.  
6 The department may define what constitutes a settlement that would  
7 be reportable when a credential holder refunds or reduces a fee or  
8 makes no charge for reasons related to a consumer complaint other  
9 than costs;
- 10           (iv) Denial of a credential or other form of  
11 authorization to practice by any jurisdiction due to alleged  
12 incompetence, negligence, unethical or unprofessional conduct, or  
13 physical, mental, or chemical impairment;
- 14           (v) Disciplinary action against any credential or other  
15 form of permit he or she holds taken by any jurisdiction, the  
16 settlement of such action, or any voluntary surrender of or  
17 limitation on any such credential or other form of permit;
- 18           (vi) Loss of membership in, or discipline of a  
19 credential related to the applicable profession by, a professional  
20 organization due to alleged incompetence, negligence, unethical  
21 or unprofessional conduct, or physical, mental, or chemical  
22 impairment; or
- 23           (vii) Conviction of any misdemeanor or felony in this or  
24 any other jurisdiction.
- 25           (2) The requirement to file a report under subdivision

1 (1) (a) or (b) of this section shall not apply:

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

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

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

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

18 Sec. 126. (1) A report made to the department under  
19 section 124 or 125 of this act shall be confidential.

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



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

10           (4) Documents from original sources shall not be  
 11 construed as immune from discovery or use in actions under section  
 12 125 of this act.

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

15           ~~71-168.02~~ (1) A health care facility licensed under the  
 16 Health Care Facility Licensure Act or a peer review organization  
 17 or professional association of a health care profession regulated  
 18 under the ~~Advanced Practice Registered Nurse Licensure Act, the~~  
 19 ~~Certified Registered Nurse Anesthetist Act, the Clinical Nurse~~  
 20 ~~Specialist Practice Act, the Emergency Medical Services Act, the~~  
 21 ~~Licensed Practical Nurse-Certified Act, the Nebraska Certified~~  
 22 ~~Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the~~  
 23 ~~Nurse Practice Act, the Nurse Practitioner Act, the Occupational~~  
 24 ~~Therapy Practice Act, the Uniform Controlled Substances Act, the~~  
 25 ~~Uniform Licensing Law, the Wholesale Drug Distributor Licensing~~

1 Act, ~~or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or~~  
2 ~~71-6053 to 71-6068~~ Uniform Credentialing Act shall report to  
3 the department, on a form and in the manner specified by the  
4 department, ~~by rule and regulation,~~ any facts known to ~~them,~~ the  
5 facility, organization, or association, including, but not limited  
6 to, the identity of the ~~practitioner~~ credential holder and ~~patient,~~  
7 consumer, when the facility, organization, or association:

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

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

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

22 (2) A report made to the department under this section  
23 shall be confidential, ~~and treated in the same manner as complaints~~  
24 ~~and investigative files under subsection (7) of section 71-168.01.~~  
25 The facility, organization, association, or person making such

1 report shall be completely immune from criminal or civil liability  
2 of any nature, whether direct or derivative, for filing a report or  
3 for disclosure of documents, records, or other information to the  
4 department under this section. ~~The reports and information shall~~  
5 ~~be subject to the investigatory and enforcement provisions of the~~  
6 ~~regulatory provisions listed in subsection (1) of this section.~~  
7 Nothing in this subsection shall be construed to require production  
8 of records protected by section 25-12,123, 71-2048, or 71-7903 or  
9 patient safety work product under the Patient Safety Improvement  
10 Act except as otherwise provided in any of such sections or such  
11 act.

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

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

1 contain the information required by ~~rules and regulations~~ of the  
2 department.

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

5 ~~71-147.01~~ No member of a peer review committee of a state  
6 or local association or society composed of ~~health practitioners~~  
7 ~~licensed pursuant to the provisions of Chapter 71, article 1,~~  
8 persons credentialed under the Uniform Credentialing Act shall be  
9 liable in damages to any person for slander, libel, defamation  
10 of character, breach of any privileged communication, or otherwise  
11 for any action taken or recommendation made within the scope of  
12 the functions of such committee, if such committee member acts  
13 without malice and in the reasonable belief that such action or  
14 recommendation is warranted by the facts known to ~~him~~ such member  
15 after a reasonable effort is made to obtain the facts on which such  
16 action is taken or recommendation is made.

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

19 ~~71-1,199~~ Unless such knowledge or information is based  
20 on confidential medical records protected by the confidentiality  
21 provisions of the federal Public Health Services Act, 42 U.S.C.  
22 290dd-2, and federal administrative rules and regulations, as such  
23 act and rules and regulations existed on January 1, 2007:

24 (1) Any insurer having knowledge of any violation of any  
25 of the ~~regulatory provisions~~ Uniform Credentialing Act governing

1 the profession of the ~~practitioner~~ person being reported whether  
2 or not such person is credentialed shall report the facts of such  
3 violation as known to such insurer to the department; and

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

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

10 ~~71-1,200~~ Any insurer shall report to the department, on  
11 a form and in the manner specified by the department by rule and  
12 regulation, any facts known to the insurer, including, but not  
13 limited to, the identity of the ~~practitioner~~ credential holder and  
14 ~~patient,~~ consumer, when the insurer:

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

20 (2) Has made payment due to an adverse judgment,  
21 settlement, or award resulting from a professional liability claim  
22 against the insurer, a health care facility or health care service  
23 as defined in the Health Care Facility Licensure Act, or a  
24 ~~practitioner,~~ person required to be credentialed whether or not  
25 such person is credentialed, including settlements made prior to

1 suit in which the consumer releases any professional liability  
2 claim against the credentialed person, arising out of the acts or  
3 omissions of ~~the practitioner,~~ such person;

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

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

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

21 Sec. 131. A report made under section 129 or 130 of  
22 this act shall be made within thirty days after the date of the  
23 violation, action, event, or request. Nothing in such sections  
24 shall be construed to require an insurer to report based on  
25 information gained due to the filing of a claim for payment under a

1 health insurance policy by or on behalf of a person required to be  
2 credentialed whether or not such person is credentialed.

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

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

19           ~~71-1,201~~ Any insurer who fails or neglects to make  
20 a report to or provide such information as requested by the  
21 department pursuant to section ~~71-1,199~~ ~~or~~ ~~71-1,200~~ within a  
22 ~~reasonable time~~ 129 or 130 of this act within thirty days after  
23 the violation, action, event, or request is guilty of a Class IV  
24 III misdemeanor. Any insurer who violates this section a second  
25 or subsequent time is guilty of a Class II misdemeanor.  ~~unless~~

1 ~~such insurer has reported the required facts to a law enforcement~~  
2 ~~agency.~~

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

5           ~~71-1,202~~ To the extent that ~~such~~ reports made under  
6 section 129 or 130 of this act contain or relate to privileged  
7 communications between ~~patient~~ consumer and ~~practitioner,~~  
8 credential holder, such reports shall be treated by the department  
9 as privileged communications and shall be considered to be part of  
10 the investigational records of the department. Such reports may not  
11 be obtained by legal discovery proceedings or otherwise disclosed  
12 unless the privilege is waived by the ~~patient~~ consumer involved  
13 or the reports are made part of the record in a contested case  
14 under section ~~71-154,~~ 86 of this act, in which case such reports  
15 shall only be disclosed to the extent they are made a part of such  
16 record.

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

19           ~~71-1,204~~ Any insurer or employee of an insurer making a  
20 report as required by section ~~71-1,199 or 71-1,200~~ 129 or 130 of  
21 this act shall be immune from criminal penalty of any kind or from  
22 civil liability or other penalty for slander, libel, defamation,  
23 breach of the privilege between ~~patient~~ consumer and physician or  
24 between ~~client~~ consumer and professional counselor, or violation  
25 of the laws of the State of Nebraska relating to the business



1 of insurance that may be incurred or imposed on account of or in  
 2 connection with the making of such report.

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

5 ~~71-1,205~~ Nothing contained in sections ~~71-1,198~~ to  
 6 ~~71-1,205~~ 129 to 136 of this act shall be construed so as  
 7 to require any ~~practitioner~~ credential holder to violate a  
 8 ~~practitioner-patient privilege~~ between a credential holder and a  
 9 consumer.

10 Sec. 137. Section 71-1,339, Revised Statutes Cumulative  
 11 Supplement, 2006, is amended to read:

12 ~~71-1,339~~ The clerk of any county or district court  
 13 in this state shall report to the ~~Department of Health and~~  
 14 ~~Human Services Regulation and Licensure~~ department the conviction  
 15 of any person ~~licensed, certified, or registered~~ credentialed  
 16 by the department under the ~~Advanced Practice Registered Nurse~~  
 17 ~~Licensure Act, the Certified Registered Nurse Anesthetist Act,~~  
 18 ~~the Clinical Nurse Specialist Practice Act, the Emergency Medical~~  
 19 ~~Services Act, the Licensed Practical Nurse-Certified Act, the~~  
 20 ~~Nebraska Certified Nurse Midwifery Practice Act, the Nebraska~~  
 21 ~~Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner~~  
 22 ~~Act, the Occupational Therapy Practice Act, the Uniform Controlled~~  
 23 ~~Substances Act, the Uniform Licensing Law, the Wholesale Drug~~  
 24 ~~Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701~~  
 25 ~~to 71-4719, or 71-6053 to 71-6068~~ Uniform Credentialing Act of any

1 felony or of any misdemeanor involving the use, sale, distribution,  
2 administration, or dispensing of a controlled substance, alcohol  
3 or chemical impairment, or substance abuse and shall also report  
4 a judgment against any such ~~licensee, certificate holder, or~~  
5 ~~registrant~~ credential holder arising out of a claim of professional  
6 liability. The Attorney General or city or county prosecutor  
7 prosecuting any such criminal action and plaintiff in any such  
8 civil action shall provide the court with information concerning  
9 the ~~licensure, certification, or registration~~ credential of the  
10 defendant or party. Notice to the department shall be filed within  
11 thirty days after the date of conviction or judgment in a manner  
12 agreed to by the ~~Director of Regulation and Licensure~~ director and  
13 the State Court Administrator.

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

16 ~~71-168.01~~ (1) Any person may make a complaint and request  
17 investigation of an alleged violation of the Uniform Licensing Law  
18 Credentialing Act or rules and regulations issued under such law-  
19 act. A complaint submitted to the department shall be confidential,  
20 and a person making a complaint shall be immune from criminal or  
21 civil liability of any nature, whether direct or derivative, for  
22 filing a complaint or for disclosure of documents, records, or  
23 other information to the department.

24 (2) The department shall review all complaints and  
25 determine whether to conduct an investigation and in making such

1 determination may consider factors such as:

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

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

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

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

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

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

21 ~~(2)~~ If the department determines that a complaint will  
22 not be investigated, the department shall notify the complainant  
23 of such determination. At the request of the complainant, the  
24 appropriate professional board may review the complaint and provide  
25 its recommendation to the department on whether the complaint

1 ~~merits investigation.~~

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

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

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

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

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

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

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

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

23 (7) Complaints or investigational records of the  
24 department shall not be public records, shall not be subject to  
25 subpoena or discovery, and shall be inadmissible in evidence in

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

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

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

20           ~~71-171~~ Upon the request of the department, the Attorney  
21 General shall institute in the name of the state the proper  
22 civil or criminal proceedings against any person regarding whom a  
23 complaint has been made, charging him or her with violation of any  
24 of the provisions of the Uniform Licensing Law, Credentialing Act,  
25 and the county attorney, at the request of the Attorney General

1 or of the department, shall appear and prosecute such action when  
2 brought in his or her county.

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

5 ~~71-17,131~~ Sections ~~71-17,131~~ to ~~71-17,141~~ 140 to 151 of  
6 this act shall be known and may be cited as the Advanced Practice  
7 Registered Nurse ~~Licensure~~ Practice Act.

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

10 ~~71-17,132~~ The Legislature finds and declares that:

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

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

17 (3) The purpose of the Advanced Practice Registered  
18 Nurse ~~Licensure~~ Practice Act is established to encourage registered  
19 nurses to perform advanced roles in nursing.

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

22 ~~71-17,133~~ For purposes of the Advanced Practice  
23 Registered Nurse ~~Licensure~~ Act and ~~except as provided in section~~  
24 ~~71-1708,~~ Practice Act and elsewhere in the Uniform Credentialing  
25 Act, unless the context otherwise requires, the definitions

1 definition found in section 71-1,132.05 shall apply. 143 of this  
2 act applies.

3           Sec. 143. Board means the Board of Advanced Practice  
4 Registered Nurses.

5           Sec. 144. Section 71-17,134, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           ~~71-17,134 (1) The Board of Advanced Practice Registered~~  
8 ~~Nurses is established. The purpose of the board is to (a) provide~~  
9 ~~for the health, safety, and welfare of the citizens, (b) ensure~~  
10 ~~that licensees serving the public meet minimum standards of~~  
11 ~~proficiency and competency, and (c) control the profession in~~  
12 ~~the interest of consumer protection.~~

13           ~~(2)(a) (1) Until July 1, 2007, the board shall consist~~  
14 ~~of (i) (a) five advanced practice registered nurses representing~~  
15 ~~different advanced practice registered nurse specialties for which~~  
16 ~~a license has been issued, (ii) (b) five physicians licensed under~~  
17 ~~the Uniform Licensing Law to practice medicine in Nebraska, at~~  
18 ~~least three of whom shall have a current collaborating relationship~~  
19 ~~with an advanced practice registered nurse, (iii) (c) three~~  
20 ~~consumer members, and (iv) (d) one licensed pharmacist.~~

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

23           ~~(i) (a) One nurse practitioner holding a certificate~~  
24 ~~license under the Nurse Practitioner Practice Act, one certified~~  
25 ~~nurse midwife holding a certificate license under the Nebraska~~



1 Certified Nurse Midwifery Practice Act, one certified registered  
2 nurse anesthetist holding a ~~certificate~~ license under the Certified  
3 Registered Nurse Anesthetist Practice Act, and one clinical nurse  
4 specialist holding a ~~certificate~~ license under the Clinical Nurse  
5 Specialist Practice Act, except that the initial clinical nurse  
6 specialist appointee may be a clinical nurse specialist practicing  
7 pursuant to the Nurse Practice Act as such act existed prior to  
8 July 1, 2007. Of the initial appointments under this subdivision,  
9 one shall be for a ~~one-year~~ two-year term, one shall be for  
10 a ~~two-year~~ three-year term, one shall be for a ~~three-year~~  
11 four-year term, and one shall be for a ~~four-year~~ five-year term.  
12 All subsequent appointments under this subdivision shall be for  
13 ~~four-year~~ five-year terms;

14 ~~(ii)~~ (b) Three physicians, one of whom shall have a  
15 professional relationship with a nurse practitioner, one of whom  
16 shall have a professional relationship with a certified nurse  
17 midwife, and one of whom shall have a professional relationship  
18 with a certified registered nurse anesthetist. Of the initial  
19 appointments under this subdivision, one shall be for a ~~two-year~~  
20 three-year term, one shall be for a ~~three-year~~ four-year term,  
21 and one shall be for a ~~four-year~~ five-year term. All subsequent  
22 appointments under this subdivision shall be for ~~four-year~~  
23 five-year terms; and

24 ~~(iii)~~ (c) Two public members. Of the initial appointments  
25 under this subdivision, one shall be for a three-year term, and one

1 shall be for a four-year term. All subsequent appointments under  
2 this subdivision shall be for ~~four-year~~ five-year terms. Public  
3 members of the board shall have the same qualifications as provided  
4 in subsection ~~(1)~~ of section 71-113.

5 ~~(c)~~ (3) Members of the board serving immediately before  
6 July 1, 2007, shall serve until members are appointed and qualified  
7 under ~~subdivision (2)(b)~~ subsection (2) of this section.

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

21 ~~(4)~~ The State Board of Health has power to remove from  
22 office any member of the Board of Advanced Practice Registered  
23 Nurses, after a public hearing pursuant to the Administrative  
24 Procedure Act, for physical or mental incapacity to carry out  
25 the duties of a board member, for continued neglect of duty, for

1 ~~incompetence, for acting beyond the individual member's scope of~~  
2 ~~authority, for malfeasance in office, for any cause for which a~~  
3 ~~license or certificate in the member's profession involved may be~~  
4 ~~suspended or revoked, for a lack of licensure or certification in~~  
5 ~~the member's profession, or for other sufficient cause.~~

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

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

16 Sec. 145. Section 71-17,135, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 ~~71-17,135~~ The Board of Advanced Practice Registered  
19 Nurses board shall:

20 (1) Establish standards for integrated practice  
21 agreements between collaborating physicians and certified nurse  
22 midwives, and nurse practitioners;

23 (2) Monitor the scope of practice by certified nurse  
24 midwives, certified registered nurse anesthetists, clinical nurse  
25 specialists, and nurse practitioners;

1           ~~(3)~~ Administer and enforce the Advanced Practice  
2 Registered Nurse Licensure Act in order to ~~(a)~~ provide for the  
3 health, safety, and welfare of the citizens, ~~(b)~~ ensure that  
4 advanced practice registered nurses serving the public meet minimum  
5 standards of proficiency and competency, ~~(c)~~ control the profession  
6 in the interest of consumer protection, ~~(d)~~ regulate the scope of  
7 advanced practice nursing, ~~(e)~~ recommend disciplinary actions as  
8 provided in this section, and ~~(f)~~ enforce licensure requirements;

9           ~~(4)~~ (3) Recommend disciplinary action relating to  
10 licenses of advanced practice registered nurses, and certificates  
11 of certified nurse midwives, certified registered nurse  
12 anesthetists, clinical nurse specialists, and nurse practitioners;

13           ~~(5)~~ (4) Engage in other activities not inconsistent with  
14 the Advanced Practice Registered Nurse Licensure Practice Act, the  
15 Certified Nurse Midwifery Practice Act, the Certified Registered  
16 Nurse Anesthetist Practice Act, the Clinical Nurse Specialist  
17 Practice Act, the Nebraska Certified Nurse Midwifery Practice Act,  
18 and the Nurse Practitioner Practice Act; and

19           ~~(6)~~ Approve (5) Adopt rules and regulations to implement  
20 the Advanced Practice Registered Nurse Licensure Practice Act, the  
21 Certified Nurse Midwifery Practice Act, the Certified Registered  
22 Nurse Anesthetist Practice Act, the Clinical Nurse Specialist  
23 Practice Act, the Nebraska Certified Nurse Midwifery Practice  
24 Act, and the Nurse Practitioner Practice Act, for adoption and  
25 promulgation by the department as provided in section 26 of this

1 act. Such rules and regulations shall also include: (a) Approved  
 2 certification organizations and approved certification programs;  
 3 and (b) ~~continuing competency requirements~~. The requirements may  
 4 ~~include, but not be limited to, continuing education, continuing~~  
 5 ~~practice, national recertification, a reentry program, peer review~~  
 6 ~~including patient outcomes, examination, or other continuing~~  
 7 ~~competency activities listed in section 71-161.09; (c) grounds for~~  
 8 ~~discipline; (d) issuance, renewal, and reinstatement of licenses~~  
 9 ~~and certificates; (e) fees; (f) professional liability insurance.;~~  
 10 ~~and (g) conflict of interest for board members.~~

11           Sec. 146. Section 71-17,136, Revised Statutes Cumulative  
 12 Supplement, 2006, is amended to read:

13           ~~71-17,136~~ The department shall issue a license as an  
 14 advanced practice registered nurse to a registered nurse who meets  
 15 the requirements of subsection (1) or (3) of section ~~71-17,137.~~  
 16 147 of this act. The department may issue a license as an  
 17 advanced practice registered nurse to a registered nurse pursuant  
 18 to subsection (2) of section ~~71-17,137.~~ 147 of this act.

19           Sec. 147. Section 71-17,137, Revised Statutes Cumulative  
 20 Supplement, 2006, is amended to read:

21           ~~71-17,137~~ (1) An applicant for initial licensure as an  
 22 advanced practice registered nurse shall:

23           (a) Be licensed as a registered nurse under the Nurse  
 24 Practice Act or have authority based on the Nurse Licensure Compact  
 25 to practice as a registered nurse in Nebraska;

1           (b) Be a graduate of or have completed a graduate-level  
2 advanced practice registered nurse program in a clinical specialty  
3 area of certified registered nurse anesthetist, clinical nurse  
4 specialist, certified nurse midwife, or nurse practitioner, which  
5 program is accredited by a national accrediting body;

6           (c) Be certified as a certified registered nurse  
7 anesthetist, a clinical nurse specialist, a certified nurse  
8 midwife, or a nurse practitioner, by an approved certifying body  
9 or an alternative method of competency assessment approved by  
10 the board, pursuant to the Certified Nurse Midwifery Practice  
11 Act, the Certified Registered Nurse Anesthetist Practice Act, the  
12 Clinical Nurse Specialist Practice Act, ~~the Nebraska Certified~~  
13 ~~Nurse Midwifery Practice Act,~~ or the Nurse Practitioner Practice  
14 Act, as appropriate to the applicant's educational preparation;

15           ~~(d)~~ Submit a completed written application to the  
16 department which includes the applicant's social security number  
17 and appropriate fees established and collected as provided in  
18 section 71-162;

19           ~~(e)~~ (d) Provide evidence as required by rules and  
20 regulations; and approved by the board and adopted and promulgated  
21 by the department; and

22           ~~(f)~~ (e) Have committed no acts or omissions which are  
23 grounds for disciplinary action in another jurisdiction or, if such  
24 acts have been committed and would be grounds for discipline under  
25 the Nurse Practice Act, the board has found after investigation

1 that sufficient restitution has been made.

2 ~~(2)(a) Except as provided in subdivisions (b) through (d)~~  
3 ~~of this subsection,~~ the (2) The department may issue a license by  
4 ~~endorsement~~ under this section to an applicant who holds a license  
5 from another jurisdiction if the licensure requirements of such  
6 other jurisdiction meet or exceed the requirements for licensure as  
7 an advanced practice registered nurse under the Advanced Practice  
8 Registered Nurse Licensure Practice Act.~~(b) The department may~~  
9 issue a license as an advanced practice registered nurse by  
10 endorsement to an applicant who holds a credential equivalent  
11 to a nurse practitioner issued by another jurisdiction if such  
12 applicant holds a certificate or degree described in subdivision  
13 ~~(3) of section 71-1717.~~~~(c) The department may issue a license as an~~  
14 advanced practice registered nurse by endorsement to an applicant  
15 who holds a credential equivalent to a certified registered nurse  
16 anesthetist issued by another jurisdiction if such applicant meets  
17 the requirements of subdivision ~~(4)~~ of section 71-1730 as such  
18 subdivision existed on December 31, 1998.~~(d) The department may~~  
19 issue a license as an advanced practice registered nurse by  
20 endorsement to an applicant who holds a credential equivalent to  
21 a certified nurse midwife issued by another jurisdiction if such  
22 applicant meets the requirements of subsection ~~(1)~~ of section  
23 71-1755 as such subsection existed immediately before July 1, 2007.  
24 ~~(e) An applicant under this subsection shall submit a completed~~  
25 application to the department which includes the applicant's social

1 ~~security number, fees established and collected as provided in~~  
2 ~~section 71-162, and other evidence as documentation required by~~  
3 ~~rules and regulations, approved by the board and adopted and~~  
4 ~~promulgated by the department.~~

5 (3) A person licensed as an advanced practice registered  
6 nurse or certified as a certified registered nurse anesthetist or  
7 a certified nurse midwife in this state on July 1, 2007, shall  
8 be issued a license by the department as an advanced practice  
9 registered nurse on such date.

10 ~~(4) A person licensed as an advanced practice registered~~  
11 ~~nurse in this state may use the title advanced practice registered~~  
12 ~~nurse and the abbreviation APRN.~~

13 Sec. 148. Section 71-17,138, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 ~~71-17,138 (1)~~ The license of each person licensed under  
16 the Advanced Practice Registered Nurse ~~Licensure~~ Practice Act  
17 shall be renewed at the same time and in the same manner as  
18 renewal of his ~~or her~~ certificate described in subdivision ~~(c)~~  
19 ~~of this subsection.~~ Renewal of such a license for a registered  
20 nurse and shall require that the applicant have (a) a license  
21 as a registered nurse issued by the state or have the authority  
22 based on the Nurse Licensure Compact to practice as a registered  
23 nurse in Nebraska, (b) documentation of continuing competency,  
24 either by reference, peer review, examination, or one or more of  
25 the continuing competency activities listed in section ~~71-161.09,~~



1 as 45 of this act and established by the board in rules and  
2 regulations,  approved by the board and adopted and promulgated by  
3 the department, and (c) a certificate issued met any specific  
4 requirements for renewal under the Certified Nurse Midwifery  
5 Practice Act, the Certified Registered Nurse Anesthetist Practice  
6 Act, the Clinical Nurse Specialist Practice Act, the Nebraska  
7 Certified Nurse Midwifery Practice Act, or the Nurse Practitioner  
8 Practice Act, as applicable.

9 ~~(2) The department shall establish and collect fees for~~  
10 ~~renewal as provided in section 71-162.~~

11 Sec. 149. Section 71-17,140, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 ~~71-17,140 (1) An advanced practice registered nurse's~~  
14 ~~license lapses expires if he or she (a) does not have a current~~  
15 ~~renew his or her license to practice as a registered nurse or has~~  
16 ~~had his or her license to practice as a registered nurse denied,~~  
17 ~~refused renewal, suspended, or revoked or (b) renews his or her~~  
18 ~~license to practice as a registered nurse but does not renew his or~~  
19 ~~her advanced practice registered nurse's license. is not authorized~~  
20 ~~to practice as a registered nurse in this state under the Nurse~~  
21 ~~Licensure Compact.~~

22 ~~(2) When an advanced practice registered nurse's license~~  
23 ~~lapses, the right of the person whose license has lapsed to~~  
24 ~~represent himself or herself as an advanced practice registered~~  
25 ~~nurse and to practice the activities for which a license is~~

1 ~~required terminates. To restore the license to active status, the~~  
 2 ~~person shall meet the requirements for renewal which are in effect~~  
 3 ~~at the time that he or she wishes to restore the license and shall~~  
 4 ~~pay the renewal fee and the late fee established and collected as~~  
 5 ~~provided in section 71-162.~~

6           Sec. 150. The department shall establish and collect  
 7 fees for initial licensure and renewal under the Advanced Practice  
 8 Registered Nurse Practice Act as provided in sections 51 to 57 of  
 9 this act.

10           Sec. 151. A person licensed as an advanced practice  
 11 registered nurse in this state may use the title advanced practice  
 12 registered nurse and the abbreviation APRN.

13           Sec. 152. Sections 152 to 172 of this act shall be known  
 14 and may be cited as the Alcohol and Drug Counseling Practice Act.

15           Sec. 153. Section 71-1,351, Revised Statutes Cumulative  
 16 Supplement, 2006, is amended to read:

17           ~~71-1,351~~ For purposes of ~~sections 71-1,351 to 71-1,361~~  
 18 the Alcohol and Drug Counseling Practice Act and elsewhere in  
 19 the Uniform Licensing Law, Credentialing Act, unless the context  
 20 otherwise requires, the definitions found in sections 154 to 160 of  
 21 this act apply. +

22           ~~(1) Alcohol and drug counseling means providing or~~  
 23 ~~performing the core functions of an alcohol and drug counselor~~  
 24 ~~for remuneration;~~

25           ~~(2) Alcohol and drug counselor means a person engaged in~~

1 alcohol and drug counseling;

2           (3) Alcohol or drug abuse means the abuse of alcohol  
3 or other drugs which have significant mood or perception  
4 changing capacities, which are likely to be physiologically or  
5 psychologically addictive, and the use of which have negative  
6 physical, social, or psychological consequences;

7           (4) Alcohol or drug dependence means cognitive,  
8 behavioral, and psychological symptoms indicating the continued  
9 use of alcohol or other drugs despite significant alcohol or  
10 drug-related problems;

11           (5) Alcohol or drug disorder means a substance-related  
12 disorder as defined by the department in rules and regulations  
13 substantially similar with the definitions of the American  
14 Psychiatric Association in the Diagnostic and Statistical Manual  
15 of Mental Disorders;

16           (6) Board means the Board of Alcohol and Drug Counseling;  
17 and

18           (7) Core functions means the following twelve activities  
19 an alcohol and drug counselor performs in the role of counselor:  
20 Screening, intake, orientation, assessment, treatment planning,  
21 counseling (individual, group, and significant others), case  
22 management, crisis intervention, client education, referral,  
23 reports and record keeping, and consultation with other  
24 professionals in regard to client treatment and services.

25           Sec. 154. Alcohol and drug counseling means providing or

1 performing the core functions of an alcohol and drug counselor for  
2 remuneration.

3           Sec. 155. Alcohol and drug counselor means a person  
4 engaged in alcohol and drug counseling.

5           Sec. 156. Alcohol or drug abuse means the abuse of  
6 alcohol or other drugs which have significant mood or perception  
7 changing capacities, which are likely to be physiologically or  
8 psychologically addictive, and the use of which have negative  
9 physical, social, or psychological consequences.

10           Sec. 157. Alcohol or drug dependence means cognitive,  
11 behavioral, and psychological symptoms indicating the continued  
12 use of alcohol or other drugs despite significant alcohol or  
13 drug-related problems.

14           Sec. 158. Alcohol or drug disorder means a  
15 substance-related disorder as defined by the department in  
16 rules and regulations substantially similar with the definitions  
17 of the American Psychiatric Association in the Diagnostic and  
18 Statistical Manual of Mental Disorders.

19           Sec. 159. Board means the Board of Alcohol and Drug  
20 Counseling.

21           Sec. 160. Core functions means the following twelve  
22 activities an alcohol and drug counselor performs in the  
23 role of counselor: Screening, intake, orientation, assessment,  
24 treatment planning, counseling (individual, group, and significant  
25 others), case management, crisis intervention, client education,

1 referral, reports and record keeping, and consultation with other  
2 professionals in regard to client treatment and services.

3           Sec. 161. Membership on the board shall consist of seven  
4 professional members and two public members appointed pursuant to  
5 section 58 of this act. The members shall meet the requirements  
6 of sections 64 and 65 of this act. Three of the professional  
7 members shall be licensed alcohol and drug counselors who may  
8 also be licensed as psychologists or mental health practitioners,  
9 three of the professional members shall be licensed alcohol and  
10 drug counselors who are not licensed as psychologists or mental  
11 health practitioners, and one of the professional members shall  
12 be licensed as a psychiatrist, psychologist, or mental health  
13 practitioner.

14           Sec. 162. Section 71-1,352, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           ~~71-1,352~~ (1) The scope of practice for alcohol and  
17 drug counseling is the application of general counseling theories  
18 and treatment methods adapted to specific addiction theory and  
19 research for the express purpose of treating any alcohol or  
20 drug abuse, dependence, or disorder. The practice of alcohol and  
21 drug counseling consists of the following performance areas which  
22 encompass the twelve core functions: Clinical evaluation; treatment  
23 planning; counseling; education; documentation; and professional  
24 and ethical standards.

25           (2) The performance area of clinical evaluation consists

1 of screening and assessment of alcohol and drug problems, screening  
2 of other presenting problems for which referral may be necessary,  
3 and diagnosis of alcohol and drug disorders. Clinical evaluation  
4 does not include mental health assessment or treatment. An alcohol  
5 and drug counselor shall refer a person with co-occurring mental  
6 disorders unless such person is under the care of, or previously  
7 assessed or diagnosed by, an appropriate practitioner within a  
8 reasonable amount of time.

9 (3) The performance area of treatment planning consists  
10 of case management, including implementing the treatment plan,  
11 consulting, and continuing assessment and treatment planning;  
12 referral; and client advocacy.

13 (4) The performance area of counseling consists of  
14 individual counseling, group counseling, and family or significant  
15 other counseling.

16 (5) The performance area of education consists of  
17 education for clients, family of clients, and the community.

18 Sec. 163. Section 71-1,353, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 ~~71-1,353~~ No person shall engage in alcohol and drug  
21 counseling or hold himself or herself out as an alcohol and drug  
22 counselor unless he or she is licensed for such purpose pursuant  
23 to the Uniform Licensing Law, Credentialing Act, except that this  
24 section shall not be construed to prevent:

25 (1) Qualified members of other professions who are

1 ~~licensed, certified, or registered~~ credentialed by this state  
2 from practice of any alcohol and drug counseling consistent with  
3 the scope of practice of their respective professions;

4 (2) Teaching or the conduct of research related to  
5 alcohol and drug counseling with organizations or institutions  
6 if such teaching, research, or consultation does not involve  
7 the delivery or supervision of alcohol and drug counseling to  
8 individuals or groups of individuals who are themselves, rather  
9 than a third party, the intended beneficiaries of such services;

10 (3) The delivery of alcohol and drug counseling by:

11 (a) Students, interns, or residents whose activities  
12 constitute a part of the course of study for medicine, psychology,  
13 nursing, school psychology, social work, clinical social work,  
14 counseling, marriage and family therapy, alcohol and drug  
15 counseling, compulsive gambling counseling, or other health care or  
16 mental health service professions; or

17 (b) Individuals seeking to fulfill postgraduate  
18 requirements for licensure when those individuals are supervised by  
19 a licensed professional consistent with the applicable regulations  
20 of the appropriate professional board;

21 (4) Duly recognized members of the clergy from providing  
22 alcohol and drug counseling in the course of their ministerial  
23 duties and consistent with the codes of ethics of their profession  
24 if they do not represent themselves to be alcohol and drug  
25 counselors;

1           (5) The incidental exchange of advice or support by  
2 persons who do not represent themselves as engaging in alcohol  
3 and drug counseling, including participation in self-help groups  
4 when the leaders of such groups receive no compensation for their  
5 participation and do not represent themselves as alcohol and drug  
6 counselors or their services as alcohol and drug counseling;

7           (6) Any person providing emergency crisis intervention or  
8 referral services; or

9           (7) Staff employed in a program designated by an  
10 agency of state government to provide rehabilitation and support  
11 services to individuals with alcohol or drug disorders from  
12 completing a rehabilitation assessment or preparing, implementing,  
13 and evaluating an individual rehabilitation plan.

14           Sec. 164. Section 71-1,354, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           ~~71-1,354~~ (1) A person may apply for a license as an  
17 alcohol and drug counselor if he or she meets the requirements  
18 provided in section ~~71-1,357. 167~~ of this act.

19           (2) A person may apply for a license as a provisional  
20 alcohol and drug counselor which permits such person to practice  
21 and acquire the supervised clinical work experience required  
22 for licensure as an alcohol and drug counselor. A license  
23 ~~for provisional status shall be eligible for renewal every two~~  
24 ~~calendar years for a maximum of two renewals upon meeting the~~  
25 ~~renewal requirements in section 71-1,360.~~ Provisional status may



1 be granted once and held for a time period not to exceed  
2 six years, except that if an individual does not complete the  
3 supervised clinical work experience required for licensure within  
4 the specified six-year period due to unforeseen circumstances  
5 as determined by the department, with the recommendation of the  
6 board, the individual may apply for one additional provisional  
7 license. An individual who is so licensed shall not render  
8 services without clinical supervision. An individual who holds  
9 provisional licensure shall inform all clients that he or she holds  
10 a provisional certification and is practicing under supervision  
11 and shall identify the supervisor. An applicant shall meet the  
12 requirements provided in section ~~71-1,355.~~ 165 of this act.

13 ~~(3) Any person certified as an alcohol and drug abuse~~  
14 ~~counselor on July 1, 2004, shall be deemed to be licensed as an~~  
15 ~~alcohol and drug counselor under the Uniform Licensing Law on such~~  
16 ~~date. Any person certified as a provisional alcohol and drug abuse~~  
17 ~~counselor on July 1, 2004, shall be deemed to be licensed as a~~  
18 ~~provisional alcohol and drug counselor under the Uniform Licensing~~  
19 ~~Law on such date. The certificate holder may continue to practice~~  
20 ~~under such certificate as a license until September 1 after the~~  
21 ~~next renewal date for his or her certificate under the rules and~~  
22 ~~regulations governing counselors as provided in section 71-1,361.~~  
23 ~~Renewals issued for such certificates extended to September 1,~~  
24 ~~2004, or September 1, 2005, shall be valid until September 1,~~  
25 ~~2006, and shall be issued with fees and continuing competency~~

1 ~~requirements prorated accordingly. Subsequent renewals shall be for~~  
2 ~~two-year periods expiring September 1 of even-numbered years as~~  
3 ~~provided in section 71-110.~~

4           Sec. 165. Section 71-1,355, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           ~~71-1,355~~ To be licensed to practice as a provisional  
7 alcohol and drug counselor, an applicant shall:

8           (1) Have a high school diploma or its equivalent;

9           (2) Have two hundred seventy hours of education related  
10 to the knowledge and skills of alcohol and drug counseling which  
11 shall include:

12           (a) A minimum of forty-five hours in counseling theories  
13 and techniques coursework;

14           (b) A minimum of forty-five hours in group counseling  
15 coursework;

16           (c) A minimum of thirty hours in human growth and  
17 development coursework;

18           (d) A minimum of fifteen hours in professional ethics and  
19 issues coursework;

20           (e) A minimum of thirty hours in alcohol and drug  
21 assessment, case planning, and management coursework;

22           (f) A minimum of thirty hours in multicultural counseling  
23 coursework;

24           (g) A minimum of forty-five hours in medical and  
25 psychosocial aspects of alcohol and drug use, abuse, and addiction

1 coursework; and

2 (h) A minimum of thirty hours in clinical treatment  
3 issues in chemical dependency coursework; and

4 (3) Have supervised practical training which shall:

5 (a) Include performing a minimum of three hundred hours  
6 in the counselor core functions in a work setting where alcohol and  
7 drug counseling is provided;

8 (b) Be a formal, systematic process that focuses on skill  
9 development and integration of knowledge;

10 (c) Include training hours documented by performance date  
11 and core function performance areas; and

12 (d) Include the performance of all counselor core  
13 functions with no single function performed less than ten hours. +  
14 and

15 ~~(4) Have read and agreed to be bound by the standards of~~  
16 ~~professional conduct and code of ethics established in the rules~~  
17 ~~and regulations under section 71-1,361.~~

18 Sec. 166. Section 71-1,356, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 ~~71-1,356~~ (1)(a) The practical training supervisor for  
21 supervised practical training required under section ~~71-1,355~~ 165  
22 of this act shall hold one of the following credentials:

23 (i) Licensure as an alcohol and drug counselor;

24 (ii) A If the practical training is acquired outside of  
25 Nebraska, a reciprocity level alcohol and drug counselor credential

1 issued by a member jurisdiction of the International Certification  
2 and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or  
3 its successor; or

4 (iii) Licensure as a physician or psychologist under  
5 the Uniform ~~Licensing Law~~, Credentialing Act, or an equivalent  
6 credential from another jurisdiction, and sufficient training as  
7 determined by the Board of Medicine and Surgery for physicians  
8 or the Board of Psychologists for psychologists, in consultation  
9 with the Board of Alcohol and Drug Counseling, and adopted and  
10 promulgated by the department in rules and regulations.

11 (b) The practical training supervisor shall not be a  
12 family member.

13 (c) The credential requirement of this subsection applies  
14 to the work setting supervisor and not to a practicum coordinator  
15 or instructor of a postsecondary educational institution.

16 (2) The practical training supervisor shall assume  
17 responsibility for the performance of the individual in training  
18 and shall be onsite at the work setting when core function  
19 activities are performed by the individual in training. A minimum  
20 of one hour of evaluative face-to-face supervision for each ten  
21 hours of core function performance shall be documented. Supervisory  
22 methods shall include, as a minimum, individual supervisory  
23 sessions, formal case staffings, and conjoint, cotherapy sessions.  
24 Supervision shall be directed towards teaching the knowledge and  
25 skills of professional alcohol and drug counseling.

1           Sec. 167. Section 71-1,357, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           ~~71-1,357~~ (1) To be licensed to practice as an alcohol  
4 and drug counselor, an applicant shall meet the requirements for  
5 licensure as a provisional alcohol and drug counselor under section  
6 ~~71-1,355~~, 165 of this act, shall receive a passing score on an  
7 examination approved by the board, and shall have six thousand  
8 hours of supervised clinical work experience providing alcohol  
9 and drug counseling services to alcohol and other drug clients  
10 for remuneration. The experience shall be polydrug counseling  
11 experience.

12           (2) The experience shall include carrying a client  
13 caseload as the primary alcohol and drug counselor performing the  
14 core functions of assessment, treatment planning, counseling, case  
15 management, referral, reports and record keeping, and consultation  
16 with other professionals for those clients. The experience shall  
17 also include responsibility for performance of the five remaining  
18 core functions although these core functions need not be performed  
19 by the applicant with each client in their caseload.

20           (3) Experience that shall not count towards licensure  
21 shall include, but not be limited to:

22           (a) Providing services to individuals who do not have  
23 a diagnosis of alcohol and drug abuse or dependence such as  
24 prevention, intervention, and codependency services or other mental  
25 health disorder counseling services, except that this shall not

1 exclude counseling services provided to a client's significant  
2 others when provided in the context of treatment for the diagnosed  
3 alcohol or drug client; and

4 (b) Providing services when the experience does not  
5 include primary case responsibility for alcohol or drug treatment  
6 or does not include responsibility for the performance of all of  
7 the core functions.

8 (4) The maximum number of hours of experience that may be  
9 accrued are forty hours per week or two thousand hours per year.

10 (5) (a) A postsecondary educational degree may be  
11 substituted for part of the supervised clinical work experience.  
12 The degree shall be from a regionally accredited postsecondary  
13 educational institution or the educational program shall be  
14 accredited by a nationally recognized accreditation agency.

15 (b) An associate's degree in addictions or chemical  
16 dependency may be substituted for one thousand hours of supervised  
17 clinical work experience.

18 (c) A bachelor's degree with a major in counseling,  
19 addictions, social work, sociology, or psychology may be  
20 substituted for two thousand hours of supervised clinical work  
21 experience.

22 (d) A master's degree or higher in counseling,  
23 addictions, social work, sociology, or psychology may be  
24 substituted for four thousand hours of supervised clinical work  
25 experience.

1 (e) A substitution shall not be made for more than one  
2 degree.

3 Sec. 168. Section 71-1,358, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 ~~71-1,358~~ (1) (a) The clinical supervisor for supervised  
6 clinical work experience under section ~~71-1,357~~ 167 of this act  
7 shall hold one of the following credentials:

8 (i) Licensure as an alcohol and drug counselor;

9 (ii) A If the clinical work is acquired outside of  
10 Nebraska, a reciprocity level alcohol and drug counselor credential  
11 issued by a member jurisdiction of the International Certification  
12 and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or  
13 its successor;

14 (iii) The highest level alcohol and drug counselor  
15 credential issued by a jurisdiction that is not a member of the  
16 International Certification and Reciprocity Consortium, Alcohol and  
17 Other Drug Abuse, Inc., or its successor if the credential is based  
18 on education, experience, and examination that is substantially  
19 similar to the license issued in this state as determined by the  
20 board; or

21 (iv) Licensure as a physician or psychologist under  
22 the Uniform Licensing Law, Credentialing Act, or an equivalent  
23 credential from another jurisdiction, and sufficient training as  
24 determined by the Board of Medicine and Surgery for physicians  
25 or the Board of Psychologists for psychologists, in consultation

1 with the Board of Alcohol and Drug Counseling, and adopted and  
2 promulgated by the department in rules and regulations.

3 (b) The clinical supervisor shall be formally affiliated  
4 with the program or agency in which the work experience is gained.

5 (c) The clinical supervisor shall not be a family member.

6 (2) There shall be one hour of evaluative face-to-face  
7 clinical supervision for each forty hours of paid alcohol and  
8 drug counseling work experience. The format for supervision shall  
9 be either one-on-one or small group. Methods of supervision may  
10 include case review and discussion or direct observation of a  
11 counselor's clinical work.

12 Sec. 169. Section 71-1,359, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 ~~71-1,359~~ (1) An individual who is licensed as a  
15 provisional alcohol and drug counselor at the time of application  
16 for licensure as an alcohol and drug counselor is deemed to have  
17 met the requirements of a high school diploma or its equivalent,  
18 the two hundred seventy hours of education related to alcohol and  
19 drug counseling, and the supervised practical training requirement.

20 (2) An applicant who is licensed as a provisional mental  
21 health practitioner or a mental health practitioner at the time of  
22 application for licensure is deemed to have met the requirements of  
23 subdivisions (2)(a), (b), (c), (d), and (f) of section ~~71-1,355-~~  
24 165 of this act.

25 Sec. 170. 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 Alcohol and Drug Counseling Practice Act or substantially  
4 equivalent requirements as determined by the department, with the  
5 recommendation of the board.

6           Sec. 171. The department shall establish and collect  
7 fees for initial licensure and renewal under the Alcohol and Drug  
8 Counseling Practice Act as provided in sections 51 to 57 of this  
9 act.

10           Sec. 172. Section 71-1,361, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           ~~71-1,361~~ (1) The department, ~~upon~~ with the advice  
13 recommendation of the board, shall adopt and promulgate rules  
14 and regulations to administer ~~sections 71-1,351 to 71-1,361,~~ the  
15 Alcohol and Drug Counseling Practice Act, including rules and  
16 regulations governing:

17           (a) Ways of clearly identifying students, interns,  
18 and other persons providing alcohol and drug counseling under  
19 supervision;

20           (b) The rights of persons receiving alcohol and drug  
21 counseling;

22           (c) The rights of clients to gain access to their  
23 records, except that records relating to substance abuse may be  
24 withheld from a client if an alcohol and drug counselor determines,  
25 in his or her professional opinion, that release of the records to

1 the client would not be in the best interest of the client or would  
2 pose a threat to another person, unless the release of the records  
3 is required by court order;

4 (d) The contents and methods of distribution of  
5 disclosure statements to clients of alcohol and drug counselors;  
6 and

7 (e) Standards of professional conduct and a code of  
8 ethics.

9 (2) The rules and regulations governing certified alcohol  
10 and drug counselors shall remain in effect to govern licensure  
11 until modified under this section, except that if there is any  
12 conflict with ~~sections 71-1,351 to 71-1,361,~~ the Alcohol and Drug  
13 Counseling Practice Act, the provisions of ~~such sections~~ the act  
14 shall prevail.

15 Sec. 173. Sections 173 to 186 of this act shall be known  
16 and may be cited as the Athletic Training Practice Act.

17 Sec. 174. Section 71-1,238, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 ~~71-1,238~~ For purposes of ~~sections 71-1,238 to 71-1,242,~~  
20 the Athletic Training Practice Act and elsewhere in the Uniform  
21 Credentialing Act, unless the context otherwise requires, the  
22 definitions found in sections 175 to 179 of this act apply. +

23 ~~(1) Athletic trainer means a person who is responsible~~  
24 ~~for the prevention, emergency care, first aid, treatment, and~~  
25 ~~rehabilitation of athletic injuries under guidelines established~~

1 with a licensed physician and who is licensed to perform the  
2 functions set out in section 71-1,240. When athletic training  
3 is provided in a hospital outpatient department or clinic or  
4 an outpatient-based medical facility, the athletic trainer will  
5 perform the functions described in section 71-1,240 with a referral  
6 from a licensed physician for athletic training;

7           (2) Athletic training means the prevention, evaluation,  
8 emergency care, first aid, treatment, and rehabilitation of  
9 athletic injuries utilizing the treatments set out in section  
10 71-1,240;

11           (3) Athletic injuries means the types of musculoskeletal  
12 injury or common illness and conditions which athletic trainers are  
13 educated to treat or refer, incurred by athletes, which prevent or  
14 limit participation in sports or recreation;

15           (4) Board means the Board of Athletic Training;

16           (5) Department means the Department of Health and Human  
17 Services Regulation and Licensure; and

18           (6) Practice site means the location where the athletic  
19 trainer practices athletic training.

20           Sec. 175. Athletic injuries means the types of  
21 musculoskeletal injury or common illness and conditions which  
22 athletic trainers are educated to treat or refer, incurred by  
23 athletes, which prevent or limit participation in sports or  
24 recreation.

25           Sec. 176. Athletic trainer means a person who is

1 responsible for the prevention, emergency care, first aid,  
2 treatment, and rehabilitation of athletic injuries under guidelines  
3 established with a licensed physician and who is licensed to  
4 perform the functions set out in section 180 of this act. When  
5 athletic training is provided in a hospital outpatient department  
6 or clinic or an outpatient-based medical facility, the athletic  
7 trainer will perform the functions described in section 180 of  
8 this act with a referral from a licensed physician for athletic  
9 training.

10           Sec. 177. Athletic training means the prevention,  
11 evaluation, emergency care, first aid, treatment, and  
12 rehabilitation of athletic injuries utilizing the treatments  
13 set out in section 180 of this act.

14           Sec. 178. Board means the Board of Athletic Training.

15           Sec. 179. Practice site means the location where the  
16 athletic trainer practices athletic training.

17           Sec. 180. (1) Athletic trainers shall be authorized to  
18 use the following physical modalities in the treatment of athletic  
19 injuries under guidelines established with a licensed physician:

20                   (a) Application of electrotherapy;

21                   (b) Application of ultrasound;

22                   (c) Use of medical diathermies;

23                   (d) Application of infrared light; and

24                   (e) Application of ultraviolet light.

25                   (2) The application of heat, cold, air, water, or

1 exercise shall not be restricted by the Athletic Training Practice  
 2 Act.

3           Sec. 181. Section 71-1,240, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5           ~~71-1,240 (1)~~ No person shall be authorized to perform  
 6 the physical modalities set out in ~~subsection (2) of this section~~  
 7 180 of this act on any person unless he or she first obtains a  
 8 license as an athletic trainer or unless such person is licensed as  
 9 a physician, osteopathic physician, chiropractor, nurse, physical  
 10 therapist, or podiatrist. No person shall hold himself or herself  
 11 out to be an athletic trainer unless licensed under ~~sections~~  
 12 ~~71-1,238 to 71-1,242.~~ the Athletic Training Practice Act.

13           ~~(2) Athletic trainers shall be authorized to use the~~  
 14 ~~following physical modalities in the treatment of athletic injuries~~  
 15 ~~under guidelines established with a licensed physician.~~

16           ~~(a) Application of electrotherapy;~~

17           ~~(b) Application of ultrasound;~~

18           ~~(c) Use of medical diathermies;~~

19           ~~(d) Application of infrared light; and~~

20           ~~(e) Application of ultraviolet light.~~

21           ~~(3) The application of heat, cold, air, water, or~~  
 22 ~~exercise shall not be restricted by sections 71-1,238 to 71-1,242.~~

23           Sec. 182. Section 71-1,239.01, Reissue Revised Statutes  
 24 of Nebraska, is amended to read:

25           ~~71-1,239.01~~ (1) An individual who accompanies an athletic

1 team or organization from another state or jurisdiction as the  
2 athletic trainer is exempt from the licensure requirements of  
3 ~~sections 71-1,238 to 71-1,242.~~ the Athletic Training Practice Act.

4 (2) An individual who is a graduate student in athletic  
5 training and who is practicing under the supervision of a licensed  
6 athletic trainer is exempt from the licensure requirements of the  
7 Athletic Training Practice Act.

8 Sec. 183. Section 71-1,241, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 ~~71-1,241~~ (1) ~~Except as provided in section 71-1,242,~~ an  
11 An applicant for licensure as an athletic trainer shall at the time  
12 of application provide proof to the department that he or she meets  
13 one or more of the following qualifications:

14 (a) Graduation after successful completion of the  
15 athletic training curriculum requirements of an accredited college  
16 or university approved by the ~~department,~~ board; or

17 (b) Graduation with a four-year degree from an accredited  
18 college or university and completion of at least two consecutive  
19 years, military duty excepted, as a student athletic trainer under  
20 the supervision of an athletic trainer approved by the board.

21 (2) In order to be licensed as an athletic trainer, an  
22 applicant shall, in addition to the requirements of subsection (1)  
23 of this section, successfully complete an examination approved by  
24 ~~the department on the recommendation of~~ the board.

25 Sec. 184. An applicant for licensure as an athletic

1 trainer who has met the education and examination requirements in  
2 section 183 of this act, who passed the examination more than  
3 three years prior to the time of application for licensure, and who  
4 is not practicing at the time of application for licensure shall  
5 present proof satisfactory to the department that he or she has  
6 within the three 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. 185. An applicant for licensure as an athletic  
10 trainer 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. 186. The department shall establish and collect  
19 fees for initial licensure and renewal under the Athletic Training  
20 Practice Act as provided in sections 51 to 57 of this act.

21           Sec. 187. Sections 187 to 212 of this act shall be known  
22 and may be cited as the Audiology and Speech-Language Pathology  
23 Practice Act.

24           Sec. 188. Section 71-1,186, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~71-1,186~~ As used in sections ~~71-1,186~~ to ~~71-1,196~~ For  
2 purposes of the Audiology and Speech-Language Pathology Practice  
3 Act and elsewhere in the Uniform ~~Licensing Law~~, Credentialing Act,  
4 unless the context otherwise requires, the definitions found in  
5 sections 189 to 194 of this act apply. †

6           ~~(1) Board shall mean the Board of Audiology and~~  
7 ~~Speech-Language Pathology;~~

8           ~~(2) Practice of audiology shall mean the application of~~  
9 ~~principles, methods, and procedures for testing, measuring, and~~  
10 ~~monitoring hearing, preparation of ear impressions and selection~~  
11 ~~of hearing aids, aural rehabilitation, hearing conservation,~~  
12 ~~vestibular testing of patients when vestibular testing is done as~~  
13 ~~a result of a referral by a physician, and instruction related to~~  
14 ~~hearing and disorders of hearing for the purpose of preventing,~~  
15 ~~identifying, evaluating, and minimizing the effects of such~~  
16 ~~disorders and conditions but shall not include the practice of~~  
17 ~~medical diagnosis, medical treatment, or surgery;~~

18           ~~(3) Audiologist shall mean an individual who practices~~  
19 ~~audiology and who presents himself or herself to the public by~~  
20 ~~any title or description of services incorporating the words~~  
21 ~~audiologist, hearing clinician, hearing therapist, or any similar~~  
22 ~~title or description of services;~~

23           ~~(4) Practice of speech-language pathology shall~~  
24 ~~mean the application of principles, methods, and procedures~~  
25 ~~for the evaluation, monitoring, instruction, habilitation, or~~



1 rehabilitation related to the development and disorders of speech,  
2 voice, or language for the purpose of preventing, identifying,  
3 evaluating, and minimizing the effects of such disorders and  
4 conditions but shall not include the practice of medical diagnosis,  
5 medical treatment, or surgery;

6           ~~(5) Speech-language pathologist shall mean an individual~~  
7 ~~who presents himself or herself to the public by any title or~~  
8 ~~description of services incorporating the words speech-language~~  
9 ~~pathologist, speech therapist, speech correctionist, speech~~  
10 ~~clinician, language pathologist, language therapist, language~~  
11 ~~clinician, logopedist, communicologist, aphasiologist, aphasia~~  
12 ~~therapist, voice pathologist, voice therapist, voice clinician,~~  
13 ~~phoniatrist, or any similar title, term, or description of~~  
14 ~~services; and~~

15           ~~(6) Communication assistant shall mean 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. 189. Audiologist means an individual who practices  
22 audiology and who presents himself or herself to the public by  
23 any title or description of services incorporating the words  
24 audiologist, hearing clinician, or hearing therapist or any similar  
25 title or description of services.

1           Sec. 190. Board means the Board of Audiology and  
2 Speech-Language Pathology.

3           Sec. 191. Communication assistant means any person who,  
4 following specified training and receiving specified supervision,  
5 provides specified limited structured communication services,  
6 which are developed and supervised by a licensed audiologist or  
7 speech-language pathologist, in the areas in which the supervisor  
8 holds licenses.

9           Sec. 192. Practice of audiology means the application of  
10 principles, methods, and procedures for testing, measuring, and  
11 monitoring hearing, preparation of ear impressions and selection  
12 of hearing aids, aural rehabilitation, hearing conservation,  
13 vestibular testing of patients when vestibular testing is done as  
14 a result of a referral by a physician, and instruction related to  
15 hearing and disorders of hearing for the purpose of preventing,  
16 identifying, evaluating, and minimizing the effects of such  
17 disorders and conditions but shall not include the practice of  
18 medical diagnosis, medical treatment, or surgery.

19           Sec. 193. Practice of speech-language pathology  
20 means the application of principles, methods, and procedures  
21 for the evaluation, monitoring, instruction, habilitation, or  
22 rehabilitation related to the development and disorders of speech,  
23 voice, or language for the purpose of preventing, identifying,  
24 evaluating, and minimizing the effects of such disorders and  
25 conditions but does not include the practice of medical diagnosis,

1 medical treatment, or surgery.

2           Sec. 194. Speech-language pathologist means an individual  
3 who presents himself or herself to the public by any title or  
4 description of services incorporating the words speech-language  
5 pathologist, speech therapist, speech correctionist, speech  
6 clinician, language pathologist, language therapist, language  
7 clinician, logopedist, communicologist, aphasiologist, aphasia  
8 therapist, voice pathologist, voice therapist, voice clinician,  
9 phoniatrist, or any similar title, term, or description of  
10 services.

11           Sec. 195. Membership on the board shall consist of four  
12 professional members and one public member appointed pursuant to  
13 section 58 of this act. The members shall meet the requirements of  
14 sections 64 and 65 of this act. Two of the professional members  
15 shall be audiologists, and two of the professional members shall be  
16 speech-language pathologists.

17           Sec. 196. Section 71-1,187, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-1,187~~ Nothing in the Uniform Licensing Law Audiology  
20 and Speech-Language Pathology Practice Act shall be construed to  
21 prevent or restrict:

22           (1) The practice of audiology or speech-language  
23 pathology or the use of the official title of such practice by a  
24 person employed as a speech-language pathologist or audiologist by  
25 the federal government;

1           (2) A physician from engaging in the practice of medicine  
2 and surgery or any individual from carrying out any properly  
3 delegated responsibilities within the normal practice of medicine  
4 and surgery under the supervision of a physician;

5           (3) A person licensed as a hearing aid fitter and dealer  
6 in this state from engaging in the fitting, selling, and servicing  
7 of hearing aids or performing such other duties as defined in  
8 ~~sections 71-4701 to 71-4719;~~ the Hearing Aid Instrument Dispensers  
9 and Fitters Practice Act;

10           (4) The practice of audiology or speech-language  
11 pathology or the use of the official title of such practice by a  
12 person who holds a valid and current credential as a speech or  
13 hearing specialist issued by the State Department of Education,  
14 if such person performs speech-language pathology or audiology  
15 services solely as a part of his or her duties within an agency,  
16 institution, or organization for which no fee is paid directly  
17 or indirectly by the recipient of such service and under the  
18 jurisdiction of the State Department of Education, but such person  
19 may elect to be within the jurisdiction of ~~sections 71-1,186 to~~  
20 ~~71-1,196;~~ the Audiology and Speech-Language Pathology Practice Act;  
21 or

22           (5) The clinical practice in audiology or speech-language  
23 pathology required for students enrolled in an accredited college  
24 or university pursuing a major in audiology or speech-language  
25 pathology, if such clinical practices are supervised by a person

1 licensed to practice audiology or speech-language pathology and if  
2 the student is designated by a title such as trainee or other title  
3 clearly indicating the training status.

4 Sec. 197. Section 71-1,196, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 ~~71-1,196~~ Any audiologist who engages in the sale of  
7 hearing aids shall not be exempt from ~~sections 71-4706 to 71-4711.~~  
8 the Hearing Aid Instrument Dispensers and Fitters Practice Act.

9 Sec. 198. Section 71-1,188, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 ~~71-1,188~~ Nothing in ~~sections 71-1,186 to 71-1,196~~ the  
12 Audiology and Speech-Language Pathology Practice Act shall be  
13 construed to prevent or restrict (1) a qualified person licensed in  
14 this state from engaging in the profession for which he or she is  
15 licensed if he or she does not present himself or herself to be an  
16 audiologist or speech-language pathologist or (2) the performance  
17 of audiology or speech-language pathology services in this state by  
18 any person not a resident of this state who is not licensed under  
19 ~~such sections,~~ the act, if such services are performed for not  
20 more than thirty days in any calendar year, if such person meets  
21 the qualifications and requirements for application for licensure  
22 under ~~such sections,~~ the act, if such person is working under  
23 the supervision of a person licensed to practice speech-language  
24 pathology or audiology, and if such person registers with the board  
25 prior to initiation of professional services.

1           Sec. 199. Section 71-1,189, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-1,189~~ Before any audiologist initiates any aural  
4 rehabilitation for an individual, the audiologist shall have in  
5 his or her possession evidence of a current otologic examination  
6 performed by a physician or the audiologist shall issue a written  
7 statement that the individual has been informed that he or she  
8 may have a medically or surgically remediable hearing loss and  
9 should seek the advice of a physician. The audiologist and the  
10 individual receiving aural rehabilitation shall sign the statement  
11 and a copy of the statement shall be provided to the individual.  
12 All vestibular testing performed by an audiologist shall be done at  
13 the referral of a physician and, whenever possible, at the referral  
14 of an otolaryngologist or neurologist.

15           Sec. 200. Section 71-1,190, Reissue Revised Statutes of  
16 Nebraska, as amended by section 1177 of this legislative bill, is  
17 amended to read:

18           ~~71-1,190~~ (1) Every applicant for a license to practice  
19 audiology shall (a)(i) for applicants graduating prior to the  
20 operative date of this section, present proof of a master's degree,  
21 a doctoral degree, or the equivalent of a master's degree or  
22 doctoral degree in audiology from an academic program approved by  
23 the board, and (ii) for applicants graduating on or after the  
24 operative date of this section, present proof of a doctoral degree  
25 or its equivalent in audiology, (b) present proof of no less than

1 thirty-six weeks of full-time professional experience or equivalent  
2 half-time professional experience in audiology, supervised in the  
3 area in which licensure is sought, and (c) successfully complete an  
4 examination approved by the board.

5 (2) Every applicant for a license to practice  
6 speech-language pathology shall (a) present proof of a master's  
7 degree, a doctoral degree, or the equivalent of a master's degree  
8 or doctoral degree in speech-language pathology from an academic  
9 program approved by the board, (b) present proof of no less than  
10 thirty-six weeks of full-time professional experience or equivalent  
11 half-time professional experience in speech-language pathology,  
12 supervised in the area in which licensure is sought, and (c)  
13 successfully complete an examination approved by the board.

14 (3) Presentation of official documentation of  
15 certification by a nationwide professional accrediting organization  
16 approved by the board shall be deemed equivalent to the  
17 requirements of this section.

18 Sec. 201. An applicant for licensure to practice  
19 audiology or speech-language pathology who has met the education,  
20 professional experience, and examination requirements in section  
21 200 of this act, who passed the examination more than three years  
22 prior to the time of application for licensure, and who is not  
23 practicing at the time of application for licensure shall present  
24 proof satisfactory to the department that he or she has within the  
25 three years immediately preceding the application for licensure

1 completed continuing competency requirements approved by the board  
2 pursuant to section 45 of this act.

3           Sec. 202. An applicant for licensure to practice  
4 audiology or speech-language pathology who has met the standards  
5 set by the board pursuant to section 26 of this act for a license  
6 based on licensure in another jurisdiction but is not practicing  
7 at the time of application for licensure shall present proof  
8 satisfactory to the department that he or she has within the three  
9 years immediately preceding the application for licensure completed  
10 continuing competency requirements approved by the board pursuant  
11 to section 45 of this act.

12           Sec. 203. Section 71-1,194, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~71-1,194~~ ~~(1)~~ A temporary license to practice audiology or  
15 speech-language pathology may be granted to persons who establish  
16 residence in Nebraska and ~~(a)~~ (1) who meet all the requirements  
17 for a license except passage of the examination required by  
18 section ~~71-1,190,~~ 200 of this act, which temporary license shall  
19 be valid only until the date on which the results of the next  
20 licensure examination are available to the department and shall  
21 not be renewed, or ~~(b)~~ (2) who meet all the requirements for a  
22 license except completion of the professional experience required  
23 by section ~~71-1,190,~~ 200 of this act, which temporary license shall  
24 be valid only until the sooner of completion of such professional  
25 experience or eighteen months and shall not be renewed.



1           ~~(2) The department shall have the power to deny, revoke,~~  
2 ~~limit, suspend, or otherwise discipline a temporary license to~~  
3 ~~practice audiology or speech-language pathology upon the grounds~~  
4 ~~and in accordance with the Uniform Licensing Law.~~

5           Sec. 204. Section 71-1,195.01, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7           ~~71-1,195.01~~ (1) Upon application and payment of the  
8 registration fee, the department shall register to practice as a  
9 communication assistant any person who:

10           (a) Is a graduate of an accredited high school or its  
11 equivalent;

12           (b) Has successfully completed all required training  
13 pursuant to sections ~~71-1,195.04 and 71-1,195.05~~ 206 and 207 of  
14 this act and any inservice training required pursuant to section  
15 ~~71-1,195.09~~ 211 of this act; and

16           (c) Has demonstrated ability to reliably maintain  
17 records and provide treatment under the supervision of a licensed  
18 audiologist or speech-language pathologist.

19           (2) Such registration shall be valid for one year from  
20 the date of issuance.

21           ~~(3) The board shall, with the approval of the department,~~  
22 ~~adopt and promulgate rules and regulations necessary to administer~~  
23 ~~sections 71-1,195.01 to 71-1,195.09.~~

24           Sec. 205. Section 71-1,195.02, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

1           ~~71-1,195.02~~ (1) The department, ~~upon~~ with the  
2 recommendation of the board, shall approve an application submitted  
3 by an audiologist or speech-language pathologist for supervision  
4 for a communication assistant when:

5           (a) The communication assistant meets the requirements  
6 for registration pursuant to section ~~71-1,195.01;~~ 204 of this act;

7           (b) The audiologist or speech-language pathologist has a  
8 valid Nebraska license; and

9           (c) The audiologist or speech-language pathologist  
10 practices in Nebraska.

11           (2) Any audiologist or speech-language pathologist  
12 seeking approval for supervision of a communication assistant  
13 shall submit an application which is signed by the communication  
14 assistant and the audiologist or speech-language pathologist with  
15 whom he or she is associated. Such application shall (a) identify  
16 the settings within which the communication assistant is authorized  
17 to practice and (b) describe the agreed-upon functions that  
18 the communication assistant may perform as provided in section  
19 ~~71-1,195.06.~~ 208 of this act.

20           (3) If the supervision of a communication assistant  
21 is terminated by the audiologist, speech-language pathologist,  
22 or communication assistant, the audiologist or speech-language  
23 pathologist shall notify the department of such termination. An  
24 audiologist or speech-language pathologist who thereafter assumes  
25 the responsibility for such supervision shall obtain a certificate

1 of approval to supervise a communication assistant from the  
2 department prior to the use of the communication assistant in  
3 the practice of audiology or speech-language pathology.

4 Sec. 206. Section 71-1,195.04, Reissue Revised Statutes  
5 of Nebraska, is amended to read:

6 ~~71-1,195.04~~ Initial training for communication assistant  
7 shall consist of at least twelve hours and shall include:

- 8 (1) An overview of speech and language and the practice  
9 of audiology and speech-language pathology;
- 10 (2) Ethical and legal responsibilities;
- 11 (3) Normal language, speech, and hearing functions;
- 12 (4) Observing and recording patient progress;
- 13 (5) Behavior management and modification; and
- 14 (6) Record keeping.

15 Sec. 207. Section 71-1,195.05, Reissue Revised Statutes  
16 of Nebraska, is amended to read:

17 ~~71-1,195.05~~ In addition to the initial training required  
18 by section ~~71-1,195.04~~, 206 of this act, any communication  
19 assistant assigned to provide aural rehabilitation programs shall  
20 have additional training which shall include, but not be limited  
21 to:

- 22 (1) Information concerning the nature of hearing loss;
- 23 (2) Purposes and principles of auditory and visual  
24 training;
- 25 (3) Maintenance and use of amplification devices; and

1           (4) Such other subjects as the department may deem  
2 appropriate.

3           Sec. 208. Section 71-1,195.06, Reissue Revised Statutes  
4 of Nebraska, is amended to read:

5           ~~71-1,195.06~~ A communication assistant may, under  
6 the supervision of a licensed audiologist or speech-language  
7 pathologist, perform the following duties and activities:

8           (1) Implement programs and procedures designed by  
9 a licensed audiologist or speech-language pathologist which  
10 develop or refine receptive and expressive verbal and nonverbal  
11 communication skills;

12           (2) Maintain records of implemented procedures which  
13 document a patient's responses to treatment;

14           (3) Provide input for interdisciplinary treatment  
15 planning, inservice training, and other activities directed by a  
16 licensed audiologist or speech-language pathologist;

17           (4) Prepare instructional material to facilitate  
18 program implementation as directed by a licensed audiologist or  
19 speech-language pathologist;

20           (5) Recommend speech, language, and hearing referrals  
21 for evaluation by a licensed audiologist or speech-language  
22 pathologist;

23           (6) Follow plans, developed by the licensed audiologist  
24 or speech-language pathologist, that provide specific sequences of  
25 treatment to individuals with communicative disorders; and

1 (7) Chart or log patient responses to the treatment plan.

2 Sec. 209. Section 71-1,195.07, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4 ~~71-1,195.07~~ A communication assistant shall not:

5 (1) Evaluate or diagnose any type of communication  
6 disorder;

7 (2) Interpret evaluation results or treatment progress;

8 (3) Consult or counsel, independent of the licensed  
9 audiologist or speech-language pathologist, with a patient, a  
10 patient's family, or staff regarding the nature or degree of  
11 communication disorders;

12 (4) Plan patient treatment programs;

13 (5) Represent himself or herself as an audiologist or  
14 speech-language pathologist or as a provider of speech, language,  
15 or hearing treatment or assessment services; or

16 (6) Independently initiate, modify, or terminate any  
17 treatment program.

18 Sec. 210. Section 71-1,195.08, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20 ~~71-1,195.08~~ (1) When supervising the communication  
21 assistant, the supervising audiologist or speech-language  
22 pathologist shall:

23 (a) Provide direct onsite supervision for the first  
24 treatment session;

25 (b) Provide direct onsite supervision of at least twenty

1 percent of all subsequent treatment sessions per quarter;

2 (c) Provide regular and frequent inservice training,  
3 either formal or informal, which is directly related to the  
4 particular services provided by the communication assistant; and

5 (d) Prepare semiannual performance evaluations of the  
6 communication assistant.

7 (2) The supervising audiologist or speech-language  
8 pathologist shall be responsible for all aspects of patient  
9 treatment.

10 Sec. 211. Section 71-1,195.09, Reissue Revised Statutes  
11 of Nebraska, is amended to read:

12 ~~71-1,195.09~~ The supervising audiologist or  
13 speech-language pathologist shall provide the communication  
14 assistant with an evaluation, supervision, and training, including  
15 at least ten hours each year of inservice training in areas related  
16 to the services provided by the communication assistant pursuant  
17 to section ~~71-1,195.08~~. 210 of this act. Such training shall be  
18 verified by annual reports to the department. The audiologist or  
19 speech-language pathologist shall keep accurate records of such  
20 evaluation, supervision, and training.

21 Sec. 212. The department shall establish and collect fees  
22 for initial licensure and registration and renewal of licensure  
23 and registration under the Audiology and Speech-Language Pathology  
24 Practice Act as provided in sections 51 to 57 of this act.

25 Sec. 213. Section 71-1738, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-1738~~ Sections ~~71-1738~~ ~~to~~ ~~71-1765~~ 213 to 230 of this  
3 act shall be known and may be cited as the ~~Nebraska~~ Certified Nurse  
4 Midwifery Practice Act.

5 Sec. 214. Section 71-1739, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 ~~71-1739~~ The Legislature hereby finds and declares that  
8 the ~~Nebraska~~ Certified Nurse Midwifery Practice Act is necessary  
9 to safeguard public life, health, safety, and welfare, to assure  
10 the highest degree of professional conduct by practitioners of  
11 certified nurse midwifery, and to insure the availability of high  
12 quality midwifery services to persons desiring such services.

13 Sec. 215. Section 71-1740, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~71-1740~~ For purposes of the ~~Nebraska~~ Certified Nurse  
16 Midwifery Practice Act and elsewhere in the Uniform Credentialing  
17 Act, unless the context otherwise requires, the definitions found  
18 in sections ~~71-1743~~ ~~to~~ ~~71-1751~~ shall 216 to 222 of this act apply.

19 Sec. 216. Section 71-1749, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 ~~71-1749~~ Approved certified nurse midwifery education  
22 program shall mean means a certified nurse midwifery education  
23 program approved by the board. The board may ~~allow~~ require such  
24 program to be accredited by the American College of Nurse-Midwives.

25 Sec. 217. Section 71-1743, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-1743~~ Board ~~shall mean~~ means the Board of Advanced  
3 Practice Registered Nurses.

4 Sec. 218. Section 71-1748, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 ~~71-1748~~ Certified nurse midwife ~~shall mean~~ means a person  
7 certified ~~under the Nebraska Certified Nurse Midwifery by a~~  
8 board-approved certifying body and licensed under the Advanced  
9 Practice Registered Nurse Practice Act to practice certified nurse  
10 midwifery in the State of Nebraska. Nothing in the act Certified  
11 Nurse Midwifery Practice Act is intended to restrict the practice  
12 of registered nurses.

13 Sec. 219. Section 71-1747, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 ~~71-1747~~ Collaboration ~~shall mean~~ means a process and  
16 relationship in which a certified nurse midwife works together  
17 with other health professionals to deliver health care within the  
18 scope of practice of certified nurse midwifery as provided in the  
19 ~~Nebraska~~ Certified Nurse Midwifery Practice Act. The collaborative  
20 relationship between the physician and the nurse midwife shall be  
21 subject to the control and regulation of the board.

22 Sec. 220. Section 71-1746, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 ~~71-1746~~ Licensed practitioner ~~shall mean~~ means any  
25 physician licensed to practice pursuant to ~~section 71-1,104,~~



1 the Medicine and Surgery Practice Act, whose practice includes  
2 obstetrics.

3 Sec. 221. Section 71-1750, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 ~~71-1750~~ Practice agreement ~~shall mean~~ means the written  
6 agreement authored and signed by the certified nurse midwife and  
7 the licensed practitioner with whom he or she is associated which:

8 (1) Identifies the settings within which the certified  
9 nurse midwife is authorized to practice;

10 (2) Names the collaborating licensed practitioner or, if  
11 more than one licensed practitioner is a party to such practice  
12 agreement, names all of the collaborating licensed practitioners;

13 (3) Defines or describes the medical functions to  
14 be performed by the certified nurse midwife, which are not  
15 inconsistent with the ~~Nebraska~~ Certified Nurse Midwifery Practice  
16 Act, as agreed to by the nurse midwife and the collaborating  
17 licensed practitioner; and

18 (4) Contains such other information as required by the  
19 board.

20 Sec. 222. Section 71-1751, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 ~~71-1751~~ Supervision ~~shall mean~~ means the ready  
23 availability of a collaborating licensed practitioner for  
24 consultation and direction of the activities of the certified nurse  
25 midwife related to delegated medical functions as outlined in the

1 practice agreement.

2 Sec. 223. Section 71-1752, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 ~~71-1752~~ The certificate to practice certified nurse  
5 midwifery shall authorize the holder, A certified nurse midwife  
6 may, under the provisions of a practice agreement, ~~to~~ (1) attend  
7 cases of normal childbirth, (2) provide prenatal, intrapartum, and  
8 postpartum care, (3) provide normal obstetrical and gynecological  
9 services for women, and (4) provide care for the newborn  
10 immediately following birth. The conditions under which a certified  
11 nurse midwife ~~shall~~ is required to refer cases to a collaborating  
12 licensed practitioner shall be specified in the practice agreement.

13 Sec. 224. Section 71-1765, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~71-1765~~ The Nebraska Certified Nurse Midwifery Practice  
16 Act shall not prohibit the performance of the functions of a  
17 certified nurse midwife by an uncertified unlicensed person if  
18 performed:

19 (1) In an emergency situation;

20 (2) By a legally qualified person from another state  
21 employed by the United States Government and performing official  
22 duties in this state; or

23 (3) By a person enrolled in an approved program for the  
24 preparation of certified nurse midwives as part of such approved  
25 program.

1           Sec. 225. Section 71-1753, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           ~~71-1753~~ (1) The specific medical functions to be  
4 performed by a certified nurse midwife within the scope of  
5 permitted practice ~~defined by section 71-1752~~ prescribed by section  
6 223 of this act shall be described in the practice agreement  
7 which shall be reviewed and approved by the board. A copy of the  
8 agreement shall be maintained on file with the board as a condition  
9 of lawful practice under the ~~Nebraska~~ Certified Nurse Midwifery  
10 Practice Act.

11           (2) A certified nurse midwife shall perform the functions  
12 detailed in the practice agreement only under the supervision of  
13 the licensed practitioner responsible for the medical care of the  
14 patients described in the practice agreement. If the collaborating  
15 licensed practitioner named in the practice agreement becomes  
16 temporarily unavailable, the certified nurse midwife may perform  
17 the authorized medical functions only under the supervision of  
18 another licensed practitioner designated as a temporary substitute  
19 for that purpose by the collaborating licensed practitioner.

20           (3) A certified nurse midwife may perform authorized  
21 medical functions only in the following settings:

22           (a) In a licensed or certified health care facility as an  
23 employee or as a person granted privileges by the facility;

24           (b) In the primary office of a licensed practitioner  
25 or in any setting authorized by the collaborating licensed

1 practitioner, except that a certified nurse midwife shall not  
2 attend a home delivery; or

3 (c) Within an organized public health agency.

4 (4) The department shall, after consultations with the  
5 board, adopt and promulgate rules and regulations to carry out the  
6 ~~Nebraska~~ Certified Nurse Midwifery Practice Act.

7 Sec. 226. Section 71-1754, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 ~~71-1754~~ If a certified nurse midwife intends to alter  
10 his or her practice status by reason of a change in the setting,  
11 supervision by a different licensed practitioner, modification of  
12 the authorized medical functions, or for any other reason, he or  
13 she shall submit a new or amended practice agreement to the board  
14 for approval before any change may be permitted.

15 Sec. 227. Section 71-1755, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 ~~71-1755~~ (1) An applicant for ~~certification~~ licensure  
18 under the Advanced Practice Registered Nurse Practice Act as  
19 a certified nurse midwife shall submit ~~to the board a written~~  
20 ~~application, which includes the applicant's social security number,~~  
21 ~~and such evidence as the board shall require~~ requires showing that  
22 the applicant is currently licensed as a registered nurse by the  
23 state or has the authority based on the Nurse Licensure Compact  
24 to practice as a registered nurse in Nebraska, has successfully  
25 completed an approved certified nurse midwifery education program,

1 and has passed a nationally recognized nurse midwifery examination  
2 ~~adopted by the board.~~ is certified as a nurse midwife by a  
3 board-approved certifying body.

4 (2) The department may, with the approval of the board,  
5 grant temporary ~~certification~~ licensure as a certified nurse  
6 midwife for up to one hundred twenty days upon application (a)  
7 to graduates of an approved nurse midwifery program pending results  
8 of the first certifying examination following graduation and (b)  
9 ~~for one hundred twenty days~~ to nurse midwives currently licensed in  
10 another state pending completion of the application for a Nebraska  
11 ~~certification~~ license. A temporary ~~permit~~ license issued pursuant  
12 to this section may be extended for up to one year with the  
13 approval of the board.

14 (3) The board shall ~~adopt an examination to be used~~  
15 ~~pursuant to subsection (1) of this section.~~ An individual holding a  
16 temporary certificate or permit as a nurse midwife on December 1,  
17 2008, shall be deemed to be holding a temporary license under this  
18 section on such date. The permitholder may continue to practice  
19 under such temporary certificate or permit as a temporary license  
20 until it would have expired under its terms.

21 (4) If more than five years have elapsed since the  
22 completion of the nurse midwifery program or since the applicant  
23 has practiced as a nurse midwife, the applicant shall meet the  
24 requirements in subsection (1) of this section and provide evidence  
25 of continuing competency, as may be determined by the board, either

1 by means of a reentry program, references, supervised practice,  
2 examination, or one or more of the continuing competency activities  
3 listed in section ~~71-161.09~~, 45 of this act.

4 Sec. 228. Section 71-1757, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 ~~71-1757~~ (1) The certificate of each person certified  
7 under the Nebraska Certified Nurse Midwifery Practice Act shall be  
8 renewed at the same time and in the same manner as renewal of  
9 a license for a registered nurse. ~~Renewal of such a certificate~~  
10 shall require that To renew a license as a certified nurse  
11 midwife, the applicant shall have (a) a current certification by a  
12 board-approved certifying body to practice nurse midwifery. license  
13 as a registered nurse issued by the state or the authority based  
14 on the Nurse Licensure Compact to practice as a registered nurse  
15 in Nebraska and (b) documentation of continuing competency, either  
16 by reference, peer review, examination, or one or more of the  
17 continuing competency activities listed in section 71-161.09, as  
18 established by the board in rules and regulations approved by the  
19 board and adopted and promulgated by the department.

20 (2) The department shall establish and collect fees for  
21 renewal as provided in section ~~71-162~~.

22 Sec. 229. Section 71-1756, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 ~~71-1756~~ Any person who holds a certificate license to  
25 practice nurse midwifery in this state shall have the right to

1 use the title certified nurse midwife and the abbreviation CNM. No  
2 other person shall use such title or abbreviation to indicate that  
3 he or she is ~~certified under the Nebraska Certified Nurse Midwifery~~  
4 ~~Practice Act,~~ licensed under the Advanced Practice Registered Nurse  
5 Practice Act to practice certified nurse midwifery.

6 Sec. 230. Section 71-1763, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~71-1763~~ Nothing in the ~~Nebraska~~ Certified Nurse Midwifery  
9 Practice Act shall be interpreted to permit independent practice.

10 Sec. 231. Section 71-1728, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 ~~71-1728~~ This section and sections 71-1729 to 71-1737  
13 Sections 231 to 241 of this act shall be known and may be cited as  
14 the Certified Registered Nurse Anesthetist Practice Act.

15 Sec. 232. For purposes of the Certified Registered Nurse  
16 Anesthetist Practice Act and elsewhere in the Uniform Credentialing  
17 Act, unless the context otherwise requires, the definitions found  
18 in sections 233 to 236 of this act apply.

19 Sec. 233. Board means the Board of Advanced Practice  
20 Registered Nurses.

21 Sec. 234. Certified registered nurse anesthetist means  
22 a licensed registered nurse certified by a board-approved  
23 certifying body and licensed under the Advanced Practice Registered  
24 Nurse Practice Act to practice as a certified registered nurse  
25 anesthetist in the State of Nebraska.

1           Sec. 235. Licensed practitioner means any physician or  
2 osteopathic physician licensed to prescribe, diagnose, and treat as  
3 prescribed in the Medicine and Surgery Practice Act.

4           Sec. 236. Section 71-1729, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           ~~71-1729 For purposes of the Certified Registered Nurse~~  
7 ~~Anesthetist Act, unless the context otherwise requires.~~

8           ~~(1) Board means the Board of Advanced Practice Registered~~  
9 ~~Nurses.~~

10          ~~(2) Certified registered nurse anesthetist means a~~  
11 ~~licensed registered nurse holding a certificate issued under the~~  
12 ~~act.~~

13          ~~(3) Department means the Department of Health and Human~~  
14 ~~Services Regulation and Licensure.~~

15          ~~(4) Licensed practitioner means any physician or~~  
16 ~~osteopathic physician licensed to prescribe, diagnose, and treat as~~  
17 ~~prescribed in sections 71-1,102 and 71-1,137; and~~

18          ~~(5) (1) Practice of anesthesia means (a) the performance~~  
19 ~~of or the assistance in any act involving the determination,~~  
20 ~~preparation, administration, or monitoring of any drug used to~~  
21 ~~render an individual insensible to pain for procedures requiring~~  
22 ~~the presence of persons educated in the administration of~~  
23 ~~anesthetics or (b) the performance of any act commonly the~~  
24 ~~responsibility of educated anesthesia personnel. Practice of~~  
25 ~~anesthesia includes the use of those techniques which are deemed~~



1 necessary for adequacy in performance of anesthesia administration.

2 (2) Nothing in the Certified Registered Nurse Anesthetist  
3 Practice Act (a) prohibits routine administration of a drug by a  
4 duly licensed registered nurse, licensed practical nurse, or other  
5 duly authorized person for the alleviation of pain or (b) prohibits  
6 the practice of anesthesia by students enrolled in an accredited  
7 school of nurse anesthesia when the services performed are a part  
8 of the course of study and are under the supervision of a licensed  
9 practitioner or certified registered nurse anesthetist.

10 Sec. 237. Section 71-1730, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 ~~71-1730 In order to obtain a certificate from the~~  
13 ~~department~~ (1) An applicant for a license under the Advanced  
14 Practice Registered Nurse Practice Act as a certified registered  
15 nurse anesthetist ~~an applicant~~ shall:

16 ~~(1)~~ (a) Hold a license as a registered nurse in the State  
17 of Nebraska or have the authority based on the Nurse Licensure  
18 Compact to practice as a registered nurse in Nebraska;

19 ~~(2) Submit a completed application verified by oath which~~  
20 ~~includes the applicant's social security number;~~

21 ~~(3) Pay the required fee established and collected as~~  
22 ~~provided in section 71-162;~~

23 ~~(4)~~ (b) Submit evidence of successful completion of a  
24 course of study in anesthesia in a school of nurse anesthesia  
25 accredited or approved by or under the auspices of the department

1 or the Council on Accreditation of Nurse Anesthesia and Educational  
2 Programs; and

3 (c) Submit evidence of current certification by the  
4 Council on Certification of Nurse Anesthetists. ~~(5) Take and~~  
5 ~~successfully pass a certifying examination approved by the~~  
6 ~~department after prior approval of such examination by the~~  
7 ~~board. Such examination may include (a) the National Qualifying~~  
8 ~~Examination for Certified Registered Nurse Anesthetists or (b) any~~  
9 ~~other approved recognized national qualifying examination for nurse~~  
10 ~~anesthetists.~~

11 (2) If more than five years have elapsed since the  
12 applicant completed the nurse anesthetist program or since the  
13 applicant has practiced as a nurse anesthetist, he or she shall  
14 meet the requirements of subdivisions (1) through (5) subsection  
15 (1) of this section and shall provide evidence of continuing  
16 competency as determined by the board, including, but not limited  
17 to, a reentry program, supervised practice, examination, or one  
18 or more of the continuing competency activities listed in section  
19 71-161.09. 45 of this act.

20 Sec. 238. Section 71-1731, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 ~~71-1731~~ The department may, with the ~~prior~~ approval of  
23 the board, ~~may grant a temporary certification license in the~~  
24 ~~practice of anesthesia for a period of not to exceed one year~~  
25 ~~and under such conditions as the board with the approval of the~~

1 ~~department determines for up to one hundred twenty days upon~~  
2 application (a) to graduates of an accredited school of nurse  
3 ~~anesthesia. The permit may be issued upon application by the~~  
4 graduate for pending results of the first certifying examination  
5 ~~following his or her graduation and shall be valid pending the~~  
6 ~~results of such examination. Temporary certification may also~~  
7 ~~be granted for a period not to exceed one year and (b) to~~  
8 ~~registered nurse anesthetists currently licensed in another state~~  
9 ~~pending completion of the application for a Nebraska certification.~~  
10 license. A temporary permit license issued pursuant to this section  
11 ~~may be extended at the discretion of the board with the approval~~  
12 ~~of the department. An individual holding a temporary permit as a~~  
13 registered nurse anesthetist on December 1, 2008, shall be deemed  
14 to be holding a temporary license under this section on such date.  
15 The permitholder may continue to practice under such temporary  
16 permit as a temporary license until it would have expired under its  
17 terms.

18           Sec. 239. Section 71-1735, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           71-1735 ~~The procedure for biennial certification renewal~~  
21 To renew a license as a certified registered nurse anesthetist,  
22 the applicant shall have current certification by a board-approved  
23 certifying body in the practice of anesthesia. shall be at the same  
24 ~~time and in the same manner as renewal of a license as a registered~~  
25 ~~nurse and shall require:(1) A license as a registered nurse in the~~

1 State of Nebraska or the authority based on the Nurse Licensure  
2 Compact to practice as a registered nurse in Nebraska;

3           ~~(2) Documentation of continuing competency as required~~  
4 ~~by the board in rules and regulations approved by the board and~~  
5 ~~adopted and promulgated by the department. Continuing education~~  
6 ~~is sufficient to meet continuing competency requirements. The~~  
7 ~~requirements may also include, but not be limited to, one or~~  
8 ~~more of the continuing competency activities listed in section~~  
9 ~~71-161.09 which a person may select as an alternative to continuing~~  
10 ~~education; and~~

11           ~~(3) Payment of the required fee established and collected~~  
12 ~~as provided in section 71-162.~~

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, is amended to read:

18           ~~71-1734~~ (1) The determination and administration of  
19 total anesthesia care shall be performed by the certified  
20 registered nurse anesthetist or a nurse anesthetist temporarily  
21 ~~certified~~ licensed pursuant to section 71-1731 238 of this act in  
22 consultation and collaboration with and with the consent of the  
23 licensed practitioner.

24           (2) The following duties and functions shall be  
25 considered as specific expanded role functions of the certified

1 registered nurse anesthetist:

2 (a) Preanesthesia evaluation including physiological  
3 studies to determine proper anesthetic management and obtaining  
4 informed consent;

5 (b) Selection and application of appropriate monitoring  
6 devices;

7 (c) Selection and administration of anesthetic  
8 techniques;

9 (d) Evaluation and direction of proper postanesthesia  
10 management and dismissal from postanesthesia care; and

11 (e) Evaluation and recording of postanesthesia course of  
12 patients.

13 (3) The determination of other duties that are normally  
14 considered medically delegated duties to the certified registered  
15 nurse anesthetist or to a nurse anesthetist temporarily certified  
16 licensed pursuant to section 71-1731 238 of this act shall be  
17 the joint responsibility of the governing board of the hospital,  
18 medical staff, and nurse anesthetist personnel of any duly licensed  
19 hospital or, if in an office or clinic, the joint responsibility  
20 of the duly licensed practitioner and nurse anesthetist. All such  
21 duties, except in cases of emergency, shall be in writing in the  
22 form prescribed by hospital or office policy.

23 Sec. 242. Sections 242 to 252 of this act shall be known  
24 and may be cited as the Chiropractic Practice Act.

25 Sec. 243. For purposes of the Chiropractic Practice Act

1 and elsewhere in the Uniform Credentialing Act, unless the context  
2 otherwise requires, the definitions found in sections 244 to 246 of  
3 this act apply.

4           Sec. 244. Section 71-180, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           ~~71-180~~ An accredited college of chiropractic ~~within the~~  
7 ~~meaning of the Uniform Licensing Law shall be~~ means (1) one  
8 ~~which is recognized by the department upon the recommendation~~  
9 ~~of the Board of Chiropractic, approved by the board,~~ (2) a  
10 legally chartered college of chiropractic requiring for admission  
11 a diploma from an accredited high school or its equivalent and,  
12 beginning with students entering a college of chiropractic on  
13 or after January 1, 1974, at least two years credit from an  
14 accredited college or university of this or some other state,  
15 which requirement shall be regularly published in each prospectus  
16 or catalog issued by such institution, (3) one which conducts a  
17 clinic for patients in which its students are required to regularly  
18 participate in the care and adjustment of patients, (4) one  
19 giving instruction in anatomy, orthopedics, physiology, embryology,  
20 chemistry, pathology, health ecology, bacteriology, symptomatology,  
21 histology, spinal analysis, diagnosis, roentgenology, neurology,  
22 and principles and practice of chiropractic, and (5) one requiring  
23 an actual attendance for four college years totaling not less than  
24 four thousand hours.

25           Sec. 245. Board means the Board of Chiropractic.

1           Sec. 246. Section 71-177, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-177 For purposes of the Uniform Licensing Law, the~~  
4 ~~practice of chiropractic is defined as being~~ (1) Practice of  
5 chiropractic means one or a combination of the following, without  
6 the use of drugs or surgery: ~~(1)~~

7           (a) The diagnosis and analysis of the living human body  
8 for the purpose of detecting ailments, disorders, and disease by  
9 the use of diagnostic X-ray, physical and clinical examination, and  
10 routine procedures including urine analysis; or ~~(2) the~~

11           (b) The science and art of treating human ailments,  
12 disorders, and disease by locating and removing any interference  
13 with the transmission and expression of nerve energy in the human  
14 body by chiropractic adjustment, chiropractic physiotherapy, and  
15 the use of exercise, nutrition, dietary guidance, and colonic  
16 irrigation.

17           (2) The use of X-rays beyond the axial skeleton as  
18 described in subdivision (1)(a) of this section shall be solely  
19 for diagnostic purposes and shall not expand the practice of  
20 chiropractic to include the treatment of human ailments, disorders,  
21 and disease not permitted when the use of X-rays was limited to the  
22 axial skeleton.

23           Sec. 247. Section 71-178, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~71-178 Section 71-177~~ The Chiropractic Practice Act shall

1 not be construed to include the following classes of persons:

2 (1) Licensed physicians and surgeons and licensed  
3 osteopathic physicians who are exclusively engaged in the practice  
4 of their respective professions;

5 (2) ~~physicians of~~ Physicians who serve in the armed  
6 forces of the United States or the United States Army, Navy, or  
7 Public Health Service when acting in the line of duty in this  
8 state, or who are employed by the United States Department of  
9 Veterans Affairs or other federal agencies, if their practice is  
10 limited to that service or employment;

11 (3) ~~chiropractors~~ Chiropractors licensed in another state  
12 when incidentally called into this state in consultation with a  
13 chiropractor licensed in this state; or

14 (4) ~~students~~ Students enrolled in an accredited college  
15 of chiropractic when the services performed are a part of the  
16 course of study and are under the direct supervision of a licensed  
17 chiropractor.

18 Sec. 248. Section 71-179, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~71-179~~ Every applicant for a license to practice  
21 chiropractic shall ~~(1)~~ present proof of graduation from an  
22 accredited college of chiropractic and ~~(2)~~ (1) pass an examination  
23 ~~which consists of the following components: (a) Parts I and II~~  
24 ~~of the examination given by the National Board of Chiropractic~~  
25 ~~Examiners; (b) the written Clinical Competency Test given by the~~



1 National Board of Chiropractic Examiners, and ~~(e)~~ the practical  
2 examination given which consists of Parts I, II, III, IV, and  
3 physiotherapy or (2) pass an examination approved by the Board of  
4 Chiropractic.

5           Sec. 249. An applicant for licensure to practice  
6 chiropractic who has met the education and examination requirements  
7 in section 248 of this act, who passed the examination more than  
8 three years prior to the time of application for licensure, and who  
9 is not practicing at the time of application for licensure shall  
10 present proof satisfactory to the department that he or she has  
11 within the three years immediately preceding the application for  
12 licensure completed continuing competency requirements approved by  
13 the board pursuant to section 45 of this act.

14           Sec. 250. Section 71-181, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           ~~71-181~~ The Department of Health and Human Services  
17 Regulation and Licensure may in its discretion dispense with the  
18 examination in case of a chiropractor duly authorized to practice  
19 chiropractic in any other state, territory, or the District of  
20 Columbia, maintaining standards established by law or by duly  
21 authorized rules, equal to those of Nebraska, and who presents a  
22 certificate or license based on written examination issued by the  
23 proper authority of such other state, territory, or the District of  
24 Columbia.

25           An applicant for licensure to practice chiropractic who

1 has met the standards set by the board pursuant to section 26 of  
2 this act for a license based on licensure in another jurisdiction  
3 but is not practicing at the time of application for licensure  
4 shall present proof satisfactory to the department that he or she  
5 has within the two years immediately preceding the application for  
6 licensure completed continuing competency requirements approved by  
7 the board pursuant to section 45 of this act.

8           Sec. 251. The department shall establish and collect fees  
9 for initial licensure and renewal under the Chiropractic Practice  
10 Act as provided in sections 51 to 57 of this act.

11           Sec. 252. Section 71-182, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           ~~71-182~~ Chiropractic practitioners shall observe and  
14 be subject to all state and municipal laws and regulations  
15 relative to the control of contagious and infectious diseases,  
16 and all matters pertaining to public health. They shall report  
17 to the proper health officers the same as other practitioners.  
18 Chiropractic practitioners may sign death certificates. When  
19 performing acupuncture, a chiropractor licensed under the Uniform  
20 ~~Licensing Law~~ Credentialing Act shall provide the same standard of  
21 care to patients as that provided by a person licensed under the  
22 ~~Uniform Licensing Law~~ Credentialing Act to practice medicine and  
23 surgery, osteopathy, or osteopathic medicine and surgery when such  
24 person performs acupuncture.

25           Sec. 253. Section 71-17,117, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-17,117~~ Sections ~~71-17,117~~ to ~~71-17,130~~ 253 to 262 of  
 3 this act shall be known and may be cited as the Clinical Nurse  
 4 Specialist Practice Act.

5 Sec. 254. For purposes of the Clinical Nurse Specialist  
 6 Practice Act and elsewhere in the Uniform Credentialing Act, unless  
 7 the context otherwise requires, the definitions found in sections  
 8 255 to 257 of this act apply.

9 Sec. 255. Section 71-17,118, Revised Statutes Cumulative  
 10 Supplement, 2006, is amended to read:

11 ~~71-17,118~~ ~~For purposes of the Clinical Nurse Specialist~~  
 12 ~~Practice Act.~~

13 ~~(1)~~ Approved certifying body means a national  
 14 certification organization which ~~(a)~~ (1) is approved by the board,  
 15 ~~(b)~~ (2) certifies qualified licensed registered nurses for advanced  
 16 practice, ~~(c)~~ (3) has eligibility requirements related to education  
 17 and practice, and ~~(d)~~ (4) offers an examination in an area of  
 18 practice which meets psychometric guidelines and tests approved by  
 19 the board. ~~†~~

20 ~~(2)~~ Board means the Board of Advanced Practice Registered  
 21 Nurses~~;~~

22 ~~(3)~~ Clinical nurse specialist means a registered nurse  
 23 who meets the requirements of section 71-17,119 and who holds a  
 24 certificate issued under the Clinical Nurse Specialist Practice  
 25 Act~~;~~ and

1           ~~(4) Department means the Department of Health and Human~~  
2 ~~Services Regulation and Licensure.~~

3           Sec. 256. Board means the Board of Advanced Practice  
4 Registered Nurses.

5           Sec. 257. Clinical nurse specialist means a registered  
6 nurse certified as described in section 260 of this act and  
7 licensed under the Advanced Practice Registered Nurse Practice  
8 Act to practice as a clinical nurse specialist in the State of  
9 Nebraska.

10          Sec. 258. Section 71-17,120, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           ~~71-17,120~~ The practice of a clinical nurse specialist  
13 includes health promotion, health supervision, illness prevention,  
14 and disease management, including assessing patients, synthesizing  
15 and analyzing data, and applying advanced nursing practice. A  
16 clinical nurse specialist conducts and applies research, advocates,  
17 serves as an agent of change, engages in systems management, and  
18 assesses and intervenes in complex health care problems within the  
19 selected clinical specialty.

20          Sec. 259. Section 71-17,128, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           ~~71-17,128~~ The Clinical Nurse Specialist Practice Act does  
23 not prohibit the performance of the professional activities of a  
24 clinical nurse specialist by a person not holding a ~~certificate~~  
25 license issued under the act if performed:

1 (1) In an emergency situation;

2 (2) By a legally qualified person from another state  
3 employed by the United States and performing official duties in  
4 this state; or

5 (3) By a person enrolled in an approved clinical nurse  
6 specialist program for the education of clinical nurse specialists  
7 as part of that approved program.

8 Sec. 260. Section 71-17,119, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 ~~71-17,119~~ An applicant for ~~certification~~ licensure under  
11 the Advanced Practice Registered Nurse Practice Act as a clinical  
12 nurse specialist shall be licensed as a registered nurse under  
13 the Nurse Practice Act or have the authority based on the Nurse  
14 Licensure Compact to practice as a registered nurse in Nebraska and  
15 shall submit to the department the following:

16 ~~(1) A completed application, including, but not limited~~  
17 ~~to, the applicant's social security number and such other~~  
18 ~~information as the department requires pursuant to rules and~~  
19 ~~regulations, accompanied by the fee established pursuant to section~~  
20 ~~71-17,130;~~

21 ~~(2)~~ (1) Evidence that the applicant holds a ~~master's~~  
22 ~~degree or a doctoral~~ graduate degree in a nursing clinical  
23 specialty area or has a ~~master's~~ graduate degree in nursing and has  
24 successfully completed a graduate-level clinical nurse specialist  
25 education program; and

1           ~~(3) Except as provided in section 71-17,121, evidence~~  
 2   (2) Evidence of passage of a board-approved examination issued  
 3   certification by an approved certifying body or, when such  
 4   ~~examination~~ certification is not available, an alternative method  
 5   of competency assessment by any means ~~permitted under section~~  
 6   ~~71-17,124~~ and approved by the board.

7           Sec. 261. To renew a license as a clinical nurse  
 8   specialist, the applicant shall have current certification by  
 9   an approved certifying body as a clinical nurse specialist.

10           Sec. 262. Section 71-17,121, Revised Statutes Cumulative  
 11   Supplement, 2006, is amended to read:

12           ~~71-17,121 (1) An applicant who meets the requirements~~  
 13   ~~for certification in section 71-17,119 shall be certified by the~~  
 14   ~~department as a clinical nurse specialist, except that a person~~  
 15   ~~practicing as a clinical nurse specialist pursuant to the Nurse~~  
 16   ~~Practice Act on July 1, 2007, who applies on or after such date and~~  
 17   ~~before September 1, 2007, shall be certified as a clinical nurse~~  
 18   ~~specialist under this section without complying with subdivision~~  
 19   ~~(3) of section 71-17,119.~~

20           ~~(2) A person certified~~ licensed as a clinical nurse  
 21   specialist has the right to use the title Clinical Nurse Specialist  
 22   and the 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~~ the act or to persons owning or  
25 operating licensed cosmetology establishments under the sponsorship

1 of a licensed cosmetology establishment or a cosmetologist licensed  
2 in 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 under the ~~Nebraska~~ Cosmetology, Electrology,  
2 Esthetics, Nail Technology, and Body Art Practice Act to perform  
3 the practices of nail technology for a limited time under the  
4 supervision of a licensed nail technician or nail technology  
5 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  
14 or school of esthetics and to teach students in a school of  
15 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 body artist;  
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.~~  
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;  ~~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,~~ act;

4 (5) A nail technology salon located in a residence shall  
5 be entirely distinct and separate from any living quarters, except  
6 that there may be one connecting door to the living portion of  
7 the dwelling as an access entrance to the salon for the owner or  
8 operator, but such entrance shall not be for the use of the general  
9 public;

10 (6) The entrance into the proposed nail technology salon  
11 used by the general public shall lead directly from the outside to  
12 the salon, except that a salon located in a commercial building may  
13 have its entrance open from a public area such as a foyer, hallway,  
14 mall, concourse, or retail sales floor. The requirements of this  
15 subdivision do not apply to nail salons located within licensed  
16 cosmetology salons;

17 (7) The proposed nail technology salon shall have at  
18 least one hundred fifty square feet of floor space. If more than  
19 one practitioner is to be employed in the salon at the same time,  
20 the salon shall contain an additional space of at least fifty  
21 square feet for each additional practitioner, except that a salon  
22 employing a licensee exclusively to perform home services need not  
23 provide additional space for such employee;

24 (8) The proposed nail technology salon shall include  
25 toilet facilities unless the salon is located in a commercial

1 building in which public toilet facilities are available that open  
2 directly off of a public area;

3 (9) The proposed nail technology salon shall have  
4 handwashing facilities within the salon; and

5 (10) The proposed nail technology salon shall meet all  
6 state or local building code and fire code requirements.

7 Sec. 402. Section 71-3,211, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-3,211~~ Any person seeking a license to operate a nail  
10 technology salon shall submit an application to the department.  
11 The application shall be on such forms and shall include such  
12 information as the department and the board may require. A a  
13 completed application shall be received by the department at least  
14 thirty days before construction or remodeling of the building  
15 proposed for use is scheduled to begin. If the applicant is an  
16 individual, the application shall include the applicant's social  
17 security number. If no construction or remodeling is planned,  
18 the application shall be submitted at least thirty days before  
19 the proposed opening of the salon for operation. Along with the  
20 application the applicant shall submit:

21 (1) A detailed floor plan or blueprint of the proposed  
22 salon sufficient to demonstrate compliance with the requirements of  
23 section ~~71-3,210~~, 401 of this act; and

24 (2) A ~~statement confirming application for~~ Evidence of  
25 minimal property damage, bodily injury, and liability insurance

1 coverage for the proposed salon.

2 Sec. 403. Section 71-3,212, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 ~~71-3,212~~ Each application for a license to operate a nail  
5 technology salon shall be reviewed by the department for compliance  
6 with the requirements of the ~~Nebraska~~ Cosmetology, Electrology,  
7 Esthetics, Nail Technology, and Body Art Practice Act. If an  
8 application is denied, the applicant shall be informed in writing  
9 of the grounds for denial and such denial shall not prejudice  
10 future applications by the applicant. If an application is  
11 approved, the department shall issue the applicant a certificate of  
12 consideration to operate a salon pending an operation inspection.  
13 The department shall conduct an operation inspection of each salon  
14 issued a certificate of consideration within six months after  
15 the issuance of such certificate. Salons passing the inspection  
16 shall be issued a permanent license. Salons failing the inspection  
17 shall submit within fifteen days evidence of corrective action  
18 taken to improve those aspects of operation found deficient. If  
19 evidence is not submitted within fifteen days or if after a second  
20 inspection the salon does not receive a satisfactory rating, it  
21 shall immediately relinquish its certificate of consideration and  
22 cease operation.

23 Sec. 404. Section 71-3,213, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~71-3,213~~ In order to maintain its license in good



1 standing, each nail technology salon shall operate in accordance  
2 with the following requirements:

3 (1) The nail technology salon shall at all times  
4 comply with all applicable provisions of the ~~Nebraska~~ Cosmetology,  
5 Electrology, Esthetics, Nail Technology, and Body Art Practice Act  
6 and all rules and regulations adopted and promulgated under such  
7 act;

8 (2) The nail technology salon owner or his or her agent  
9 shall notify the department at least thirty days prior to any  
10 change of ownership, name, or address, and at least one week prior  
11 to closure, except in emergency circumstances as determined by the  
12 department;

13 (3) No nail technology salon shall permit any unlicensed  
14 or unregistered person to perform any of the practices of nail  
15 technology within its confines or employment;

16 (4) The nail technology salon shall display a name upon,  
17 over, or near the entrance door distinguishing it as a nail  
18 technology salon;

19 (5) The nail technology salon shall permit any duly  
20 authorized agent of the department to conduct an operation  
21 inspection or investigation at any time during the normal operating  
22 hours of the nail technology salon, without prior notice, and the  
23 owner and manager shall assist the inspector by providing access  
24 to all areas of the nail technology salon, all personnel, and all  
25 records requested by the inspector;

1           (6) The nail technology salon shall display in a  
2 conspicuous place the following records:

3           (a) The current license or certificate of consideration  
4 to operate a nail technology salon;

5           (b) The current licenses or registrations of all persons  
6 employed by or working in the nail technology salon; and

7           (c) The rating sheet from the most recent operation  
8 inspection;

9           (7) At no time shall a nail technology salon employ more  
10 employees than permitted by the square footage requirements of the  
11 ~~Nebraska Cosmetology Act;~~ act; and

12           (8) The nail technology salon shall not knowingly permit  
13 its employees or clients to use, consume, serve, or in any  
14 manner possess or distribute intoxicating beverages or controlled  
15 substances upon its premises. ~~during the hours the nail technology~~  
16 ~~salon is open to the public.~~

17           Sec. 405. Section 71-3,214, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-3,214 Each nail technology salon license issued under~~  
20 ~~the Nebraska Cosmetology Act shall expire and be subject to renewal~~  
21 ~~on September 30 of each odd-numbered year.~~ The procedure for  
22 renewing a nail technology salon license shall be in accordance  
23 with section ~~71-110.01,~~ 43 of this act, except that in addition  
24 to all other requirements, ~~no salon license may be renewed unless~~  
25 ~~the nail technology salon has attained a rating of satisfactory~~

1 ~~on its most recent operation inspection. Any nail technology salon~~  
2 ~~not able to meet such requirement shall have its license placed~~  
3 ~~on inactive status until all deficiencies of operation have been~~  
4 ~~corrected, and the nail technology salon shall not be open to the~~  
5 ~~public during the time its license is inactive. the salon shall~~  
6 ~~submit evidence of minimal property damage, bodily injury, and~~  
7 ~~liability insurance coverage.~~

8           Sec. 406. Section 71-3,215, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           ~~71-3,215~~ A nail technology salon license that has been  
11 ~~revoked or expired~~ for any reason shall not be reinstated. An  
12 original application for licensure shall be submitted and approved  
13 before such salon may reopen for business.

14           Sec. 407. Section 71-3,216, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           ~~71-3,216~~ Each nail technology salon license issued shall  
17 be in effect solely for the owner or owners and premises named on  
18 the license and shall ~~lapse~~ expire automatically upon any change  
19 of ownership or location. An original application for licensure  
20 shall be submitted and approved before such salon may reopen for  
21 business.

22           Sec. 408. Section 71-3,217, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           ~~71-3,217~~ The owner of each nail technology salon shall  
25 have full responsibility for ensuring that the salon is operated

1 in compliance with all applicable laws, rules, and regulations and  
2 shall be liable for any and all violations occurring in the salon.

3 Sec. 409. Section 71-3,218, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-3,218~~ In order to be licensed as a nail technology  
6 school by the department, an applicant shall meet, and present to  
7 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 students;

12 (3) The proposed school shall contain at least five  
13 hundred square feet of floor space and facilities, staff,  
14 apparatus, and equipment appropriate to its projected enrollment  
15 in accordance with the standards established by the board and the  
16 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 or nail technology  
19 salon.

20 Sec. 410. Section 71-3,219, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 ~~71-3,219~~ A licensed school of cosmetology is not required  
23 to be licensed as a nail technology school in order to provide a  
24 nail technology program.

25 Sec. 411. Section 71-3,220, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-3,220~~ Any person seeking a license to operate a nail  
3 technology school shall submit an application to the department.  
4 The application shall be on such forms and shall include such  
5 information as the department and the board may require. A a  
6 completed application shall be received by the department at least  
7 thirty days before construction or remodeling of the building  
8 proposed for use is scheduled to begin. If no construction or  
9 remodeling is planned, the application shall be received at least  
10 thirty days before the proposed opening of the school. ~~If the~~  
11 ~~applicant is an individual,~~ the application shall include the  
12 ~~applicant's social security number.~~

13           Sec. 412. Section 71-3,221, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           ~~71-3,221~~ Along with the application, an applicant for a  
16 license to operate a nail technology school 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 persons  
2 licensed or registered under the ~~Nebraska~~ Cosmetology, Electrology,  
3 Esthetics, Nail Technology, and Body Art Practice Act to be  
4 employed by the school and the name and qualifications of the  
5 school manager;

6           (6) A completed nail technology education evaluation  
7 scale;

8           (7) A schedule of proposed hours of operation and class  
9 and course scheduling; and

10          (8) Any additional information the department may  
11 require. + ~~and~~

12          ~~(9) The required fee.~~

13           A nail technology school's license shall be valid only  
14 for the location named in the application. When a school desires  
15 to change locations, it shall comply with section ~~71-3,229.~~ 420 of  
16 this act.

17           Sec. 413. Section 71-3,222, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-3,222~~ Each application for a license to operate a  
20 nail technology school shall be reviewed by the department for  
21 compliance with the requirements of the ~~Nebraska~~ Cosmetology,  
22 Electrology, Esthetics, Nail Technology, and Body Art Practice  
23 Act. If an application is denied, the applicant shall be informed  
24 in writing of the grounds for denial and such denial shall not  
25 prejudice future applications by the applicant. If an application

1 is accepted, the ~~board and the~~ department shall immediately conduct  
2 an accreditation inspection of the proposed school. A school  
3 passing the inspection shall be issued a license and may begin  
4 operation as soon as the inspection results are received. If the  
5 proposed school fails the inspection, the applicant shall submit,  
6 within fifteen days, evidence of corrective action taken to improve  
7 those aspects of operation found deficient. If, after a second  
8 inspection to be conducted within thirty days after receipt of  
9 evidence, the school does not receive a satisfactory rating, or if  
10 evidence is not received within fifteen days, the application may  
11 be denied.

12           Sec. 414. Section 71-3,223, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~71-3,223~~ In order to maintain its license in good  
15 standing, each nail technology school shall operate in accordance  
16 with the following requirements:

17           (1) The school shall at all times comply with all  
18 applicable provisions of the ~~Nebraska~~ Cosmetology, Electrology,  
19 Esthetics, Nail Technology, and Body Art Practice Act and all rules  
20 and regulations adopted and promulgated under such act;

21           (2) The school owner or owners or their authorized agent  
22 shall notify the department at least thirty days prior to any  
23 change of ownership, name, or address, and at least sixty days  
24 prior to closure, except in emergency circumstances as determined  
25 by the department;

1           (3) No school shall permit anyone other than a nail  
2 technology student, nail technology student instructor, or nail  
3 technology instructor to perform any of the practices of nail  
4 technology within its confines or employ, except that such  
5 restriction shall not prevent a school from inviting guest teachers  
6 who are not licensed or registered to provide lectures to students  
7 or student instructors if the guest lecturer does not perform any  
8 of the practices of nail technology;

9           (4) The school shall display a name upon or near the  
10 entrance door designating it as a nail technology school;

11           (5) The school shall display in a conspicuous place  
12 within the clinic area a sign reading: All services in this school  
13 are performed by students who are training in nail technology.  
14 A notice to such effect shall also appear in all advertising  
15 conducted by the school for its clinic services;

16           (6) The school shall permit any duly authorized agent of  
17 the department to conduct an operation inspection or investigation  
18 at any time during the normal operating hours of the school without  
19 prior notice, and the owner or manager shall assist the inspector  
20 by providing access to all areas of the school, all personnel, and  
21 all records requested by the inspector;

22           (7) The school shall display in a conspicuous place the  
23 following records:

24           (a) The current license to operate a nail technology  
25 school;



1           (b) The current licenses or registrations of all persons  
2 licensed or registered under the act, except students, employed by  
3 or working in the school; and

4           (c) The rating sheet from the most recent accreditation  
5 inspection;

6           (8) At no time shall a school enroll more students than  
7 permitted by the ~~Nebraska Cosmetology Act~~ act or the rules and  
8 regulations adopted and promulgated under ~~such~~ the act;

9           (9) The school shall not knowingly permit its students,  
10 employees, or clients to use, consume, serve, or in any other  
11 manner possess or distribute intoxicating beverages or controlled  
12 substances upon its premises; ~~during the hours the school is in~~  
13 ~~operation;~~

14           ~~(10) Food shall not be consumed in any area where nail~~  
15 ~~technology services are being taught or performed and food shall~~  
16 ~~not be stored in the same area where chemical supplies or used~~  
17 ~~equipment is stored;~~

18           ~~(11)~~ (10) No nail technology instructor or nail  
19 technology student instructor shall perform, and no school shall  
20 permit such person to perform, any of the practices of nail  
21 technology on the public in a nail technology school other than  
22 that part of the practical work which pertains directly to the  
23 teaching of practical subjects to nail technology students or  
24 nail technology student instructors, and complete nail technology  
25 services shall not be provided for a client unless done in a

1 demonstration class of theoretical or practical studies;

2           ~~(12)~~ (11) The school shall maintain space, staff,  
3 library, teaching apparatus, and equipment as established by  
4 rules and regulations adopted and promulgated under the ~~Nebraska~~  
5 ~~Cosmetology Act~~, act;

6           ~~(13)~~ (12) The school shall keep a daily record of the  
7 attendance and clinical performance of each student and student  
8 instructor;

9           ~~(14)~~ (13) The school shall maintain regular class and  
10 instructor hours and shall require the minimum curriculum;

11           ~~(15)~~ (14) The school shall establish and maintain  
12 criteria and standards for student grading, evaluation, and  
13 performance and shall award a certificate or diploma to a student  
14 only upon completing a full course of study in compliance with such  
15 standards, except that no student shall receive such certificate or  
16 diploma until he or she has satisfied or made an agreement with  
17 the school to satisfy all outstanding financial obligations to the  
18 school;

19           ~~(16)~~ (15) The school shall maintain on file the  
20 enrollment of each student; and

21           ~~(17)~~ (16) The school shall print and provide to each  
22 student a copy of the school rules, which shall not be inconsistent  
23 with the ~~Nebraska Cosmetology Act~~ act or with the rules and  
24 regulations adopted and promulgated under such act and which  
25 shall include policies of the school with respect to tuition,

1 reimbursement, conduct, attendance, grading, earning of hours and  
2 credits, demerits, penalties, dismissal, graduation requirements,  
3 dress, and other information sufficient to advise the student  
4 of the standards he or she will be required to maintain. The  
5 ~~board~~ department may review any school's rules to determine their  
6 consistency with the intent and content of the ~~Nebraska Cosmetology~~  
7 ~~Act~~ act and ~~its~~ the rules and regulations and may overturn any  
8 school rules found not to be in accord.

9           Sec. 415. Section 71-3,224, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           ~~71-3,224~~ In order to maintain its license in good  
12 standing, each nail technology school shall operate in accordance  
13 with the following requirements:

14           (1) Every person accepted for enrollment as a standard  
15 student shall meet the following qualifications:

16           (a) He or she has attained the age of seventeen years on  
17 or before the date of his or her enrollment in a nail technology  
18 school;

19           (b) He or she has completed the equivalent of a high  
20 school education; and

21           (c) He or she has not undertaken any training in nail  
22 technology in this state after January 1, 2000, without being  
23 enrolled as a nail technology student;

24           ~~(2)~~ (2) (a) Every person accepted for enrollment as a  
25 special study nail technology student shall meet the following

1 requirements:

2 ~~(a)~~ (i) He or she has attained the age of seventeen years  
3 on or before the date of enrollment in a nail technology school;

4 ~~(b)~~ (ii) He or she has completed the tenth grade; and

5 ~~(c)~~ (iii) He or she is actively continuing his or her  
6 formal high school education on a full-time basis as determined by  
7 the department.

8 (b) Special study nail technology students shall be  
9 limited to attending a nail technology school for no more than  
10 eight hours per week during the school year;

11 (3) Proof of age shall consist of a birth certificate,  
12 baptismal certificate, or other equivalent document as determined  
13 by the department. Evidence of education shall consist of a  
14 high school diploma, general educational development certificate,  
15 transcript from a college or university, or equivalent document  
16 as determined by the department. No nail technology school shall  
17 accept an individual for enrollment who does not provide evidence  
18 of meeting the age and education requirements for registration;

19 (4) Every person accepted for enrollment as a nail  
20 technology student instructor shall show evidence of current  
21 licensure as a nail technician in Nebraska and completion of formal  
22 education equivalent to a United States high school education;

23 (5) The school shall, at all times the school is in  
24 operation, have at least one nail technology instructor in the  
25 school for each twenty students or fraction thereof enrolled in the

1 school;

2 (6) The school shall not permit any nail technology  
3 student to render clinical services on members of the public with  
4 or without fees until such student has satisfactorily completed  
5 the beginning curriculum, except that the ~~board~~ department may  
6 establish guidelines by which it may approve such practices as part  
7 of the beginning curriculum;

8 (7) No school shall pay direct compensation to any of its  
9 nail technology students. Nail technology student instructors may  
10 be paid as determined by the school;

11 (8) All nail technology students and nail technology  
12 student instructors shall be under the supervision of a cosmetology  
13 instructor, nail technology instructor, or nail technology student  
14 instructor at all times when nail technology services are being  
15 taught or performed;

16 ~~(9) Once a nail technology student has been classified as~~  
17 ~~a permanent drop, if after two years the student has not reenrolled~~  
18 ~~in a nail technology school in Nebraska or transferred his or her~~  
19 ~~hours to a school in another state, all hours earned by the student~~  
20 ~~shall be declared void;~~

21 ~~(10)~~ (9) No student shall be permitted by the school to  
22 train or work in a school in any manner for more than ten hours a  
23 day; and

24 ~~(11)~~ (10) The school shall not credit a nail technology  
25 student or nail technology student instructor with hours except

1 when such hours were earned in the study or practice of nail  
2 technology in accordance with the required curriculum. Hours shall  
3 be credited on a daily basis. Once credited, hours cannot be  
4 removed or disallowed except by the department upon a finding that  
5 the hours have been wrongfully allowed.

6 Sec. 416. Section 71-3,225, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~71-3,225~~ Nail technology students or nail technology  
9 student instructors may transfer from one nail technology school in  
10 Nebraska to another at any time.

11 The school to which the student is transferring shall  
12 be entitled to receive from the student's previous school, upon  
13 request, any and all records pertaining to the student.

14 Sec. 417. Section 71-3,226, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 ~~71-3,226~~ Nail technology students or nail technology  
17 student instructors may transfer into a nail technology school in  
18 Nebraska from a school in another state if:

19 (1) The school in the other state meets all requirements  
20 of section ~~71-3,224~~; 415 of this act; and

21 (2) The student submits to the department evidence that  
22 the school from which he or she is transferring was fully  
23 accredited by the appropriate body in that state at the time  
24 the student attended.

25 ~~In order to be honored in Nebraska, some portion of the~~

1 nail technology student's hours shall have been earned within the  
2 two years immediately prior to the transfer. The board and the  
3 department shall adopt and promulgate rules and regulations for  
4 determining the manner in which hours shall be awarded to students  
5 or nail technology students transferring from such schools.

6 Sec. 418. Section 71-3,227, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~71-3,227~~ No nail technology school shall at any time  
9 enroll more than one nail technology student instructor for each  
10 full-time nail technology instructor or cosmetology instructor  
11 actively working in and employed by the school.

12 Sec. 419. Section 71-3,228, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-3,228~~ Each nail technology school license issued under  
15 the Nebraska Cosmetology Act shall expire and be subject to  
16 renewal on December 31 of each odd-numbered year. The procedure for  
17 renewing a school license shall be in accordance with section  
18 ~~71-110.01,~~ 43 of this act, except that in addition to all  
19 other requirements, the nail technology school shall receive a  
20 satisfactory rating on an accreditation inspection conducted by the  
21 board and the department, in consultation with the State Department  
22 of Education, within the six months immediately prior to the date  
23 of license renewal.

24 Any nail technology school not able to meet the  
25 requirements for license renewal shall have its license placed on

1 inactive status until all deficiencies have been corrected, and  
2 the school shall not operate in any manner during the time its  
3 license is inactive. If the deficiencies are not corrected within  
4 six months after the date of license renewal, the license may  
5 be revoked unless the ~~board~~ department approves an extension of  
6 the time limit. The license of a school that has been revoked or  
7 ~~lapsed~~ expired for any reason shall not be reinstated. An original  
8 application for licensure shall be submitted and approved before  
9 such school may reopen.

10           Sec. 420. Section 71-3,229, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           ~~71-3,229~~ Each nail technology school license issued shall  
13 be in effect solely for the owner or owners and premises named  
14 thereon and shall ~~lapse~~ expire automatically upon any change  
15 of ownership or change in the county of location. An original  
16 application for licensure shall be submitted and approved before  
17 such school may reopen, except that a school moving to a new  
18 location within the same county may do so by filing an application  
19 as required by the department, paying the required fee, submitting  
20 a new floor plan, and passing an operation inspection. Materials  
21 shall be received by the department no less than thirty days prior  
22 to the move, and all provisions of this section shall be complied  
23 with before the school may begin operation at its new location.

24           Sec. 421. Section 71-3,230, Reissue Revised Statutes of  
25 Nebraska, is amended to read:



1           ~~71-3,230~~ A licensed nail technology salon may employ  
2 licensed nail technicians to perform nail technology home services  
3 by meeting the following requirements:

4           (1) In order to be issued a nail technology home services  
5 permit by the department, an applicant shall hold a current active  
6 cosmetology salon license or nail technology salon license; and

7           (2) Any person seeking a nail technology home services  
8 permit shall submit an application to the department. The  
9 application shall be on such forms and shall contain such  
10 information as the department and the board may require. A a  
11 complete application shall be received by the department at least  
12 ten days before the proposed date for beginning home services.  
13 Along with the application the applicant shall submit evidence of  
14 application for liability insurance or bonding.

15           The department shall issue a nail technology home  
16 services permit to each applicant meeting the requirements set  
17 forth in this section.

18           Sec. 422. Section 71-3,231, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           ~~71-3,231~~ In order to maintain in good standing or renew  
21 its nail technology home services permit, a nail technology salon  
22 shall at all times operate in accordance with all requirements for  
23 operation, maintain its license in good standing, and comply with  
24 the following requirements:

25           (1) Clients receiving nail technology home services shall

1 be in emergency circumstances which shall generally be defined as  
2 any condition sufficiently immobilizing to prevent the client from  
3 leaving his or her residence regularly to conduct routine affairs  
4 of daily living such as grocery shopping, visiting friends and  
5 relatives, attending social events, attending worship services, and  
6 other similar activities. Emergency circumstances may include such  
7 conditions 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 nail technology salon shall determine that  
21 each person receiving nail technology 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 nail technology home services may be provided to  
25 any client; and

1           (b) Keep on file the client information forms of all  
2 clients it is currently providing with nail technology home  
3 services or to whom it has provided such services within the  
4 past two years;

5           (3) The nail technology salon shall employ or contract  
6 with persons licensed under the ~~Nebraska~~ Cosmetology, Electrology,  
7 Esthetics, Nail Technology, and Body Art Practice Act to provide  
8 nail technology home services and shall not permit any person to  
9 perform any home services under its authority for which he or she  
10 is not licensed;

11           (4) No client shall be left unattended while any chemical  
12 service is in progress or while any electrical appliance is in use;  
13 and

14           (5) Each nail technology salon providing nail technology  
15 home services shall post a daily itinerary for each licensee  
16 providing home services. The kit for each licensee shall be  
17 available for inspection at the salon or at the home of the client  
18 receiving services.

19           Sec. 423. Section 71-3,232, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           ~~71-3,232~~ Agents of the department may make operation  
22 inspections in the homes of clients if such inspections are limited  
23 to the activities, procedures, and materials of the licensee  
24 providing nail technology home services.

25           Sec. 424. Section 71-3,233, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-3,233~~ No licensee may perform nail technology home  
3 services except when employed by or under contract to a nail  
4 technology salon holding a valid nail technology home services  
5 permit.

6           Sec. 425. Section 71-3,234, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~71-3,234~~ Each nail technology home services permit shall  
9 be subject to renewal at the same time as the nail technology  
10 salon license and shall be renewed upon request of the permitholder  
11 if the salon is operating its nail technology home services in  
12 compliance with the ~~Nebraska~~ Cosmetology, Electrology, Esthetics,  
13 Nail Technology, and Body Art Practice Act and if the salon license  
14 is renewed. No permit that has been revoked or ~~lapsed~~ expired may  
15 be reinstated or transferred to another owner or location.

16           Sec. 426. Section 71-3,235, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           ~~71-3,235~~ The owner of each salon holding a nail  
19 technology home services permit shall have full responsibility for  
20 ensuring that the nail technology home services are provided in  
21 compliance with all applicable laws and rules and regulations and  
22 shall be liable for any violations which occur.

23           Sec. 427. Section 71-3,236, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           ~~71-3,236~~ No person shall perform body art on or to

1 any person under eighteen years of age without the prior written  
2 consent of the parent or court-appointed guardian of such person.  
3 The person giving such consent must be present during the  
4 procedure. A copy of such consent shall be retained for a period of  
5 five years by the person performing such body art. Nothing in this  
6 section shall be construed to require the performance of body art  
7 on a person under eighteen years of age. Violation of this section  
8 is a Class III misdemeanor.

9           Sec. 428. Section 71-3,237, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           ~~71-3,237~~ Nothing in the ~~Nebraska~~ Cosmetology,  
12 Electrology, Esthetics, Nail Technology, and Body Art Practice Act  
13 shall be construed to authorize a person performing body art to  
14 engage in the practice of medicine and surgery.

15           Sec. 429. Section 71-3,238, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           ~~71-3,238~~ The licensure of persons performing body art  
18 or operating a body art facility under the ~~Nebraska~~ Cosmetology,  
19 Electrology, Esthetics, Nail Technology, and Body Art Practice Act  
20 shall not be construed to restrict or prohibit a governing body  
21 of a county, city, or village from providing further requirements  
22 for performing body art or operating a body art facility within  
23 its jurisdiction under ordinances at least as stringent as, or more  
24 stringent than, the regulations of the ~~Nebraska Cosmetology Act.~~  
25 act.

1           Sec. 430. The department shall establish and collect fees  
2 for credentialing under the Cosmetology, Electrology, Esthetics,  
3 Nail Technology, and Body Art Practice Act as provided in sections  
4 51 to 57 of this act.

5           Sec. 431. Section 71-3,169, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           ~~71-3,169~~ (1) The department shall conduct inspections as  
8 required by the ~~Nebraska~~ Cosmetology, Electrology, Esthetics, Nail  
9 Technology, and Body Art Practice Act. Two types of inspections  
10 shall be conducted which shall be known as operation inspections  
11 and accreditation inspections. An operation inspection shall be  
12 conducted to ascertain that an establishment or a facility is  
13 operating in full compliance with all laws, rules, and regulations.  
14 An accreditation inspection shall be conducted to accomplish the  
15 purposes of an operation inspection and to ascertain that a school  
16 of cosmetology, a nail technology school, a school of esthetics,  
17 or an apprentice salon is maintaining academic standards and  
18 requirements of a quality consistent with the purpose of the  
19 ~~Nebraska Cosmetology Act.~~ act. All accreditation inspections shall  
20 be announced at least two weeks prior to the actual inspection.

21           (2) ~~The board and the department,~~ with the recommendation  
22 of the board, shall adopt and promulgate rules and regulations  
23 governing the standards and criteria to be used in the conduct  
24 of inspections, the rating system to be used, and the level of  
25 achievement necessary to receive a passing grade.

1           (3) Operation inspections shall be unannounced and shall  
2 be conducted during the normal working hours of the establishment  
3 or facility. ~~The inspector shall make every effort to gather the~~  
4 ~~information he or she needs to complete the operation inspection in~~  
5 ~~an inconspicuous manner.~~

6           (4) At the conclusion of the inspection, the owner or  
7 manager of the establishment or facility shall receive a copy of  
8 the rating form, which form shall be promptly displayed, and a  
9 ~~verbal~~ statement of any deficiencies noted.

10           Sec. 432. Section 71-3,170, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           ~~71-3,170~~ If a cosmetology establishment, a nail  
13 technology establishment, ~~an electrology establishment,~~ or a body  
14 art facility receives a rating of unsatisfactory, it shall submit  
15 evidence to the department within fifteen days providing proof of  
16 corrective action taken. A repeat inspection shall be conducted  
17 within sixty days after the original inspection to determine  
18 if corrective action has occurred. The department may assess a  
19 fee for each repeat inspection required. If the establishment  
20 or facility receives an unsatisfactory rating on the repeat  
21 inspection, ~~or if evidence is not submitted within fifteen days,~~  
22 the establishment shall be fined as determined by the department by  
23 rule and regulation. If the establishment or facility receives an  
24 unsatisfactory rating after the second unsatisfactory inspection or  
25 fails to pay the fine assessed within thirty days after notice,

1 the license shall immediately be placed on inactive status pending  
2 action by the department, and the establishment or facility may not  
3 operate in any manner while its license is inactive.

4 The owner or manager of an establishment or a facility  
5 whose license has been placed on inactive status ~~shall~~ may appear  
6 before the board and the department to show cause why the  
7 department should not ask the Attorney General to initiate steps  
8 to revoke the license. The department may, as a result of such  
9 appearance, grant additional time for corrective action to occur,  
10 but the establishment or facility may not operate during such time.  
11 The establishment or facility may not return to operation until it  
12 has achieved a satisfactory rating on an inspection.

13 Sec. 433. Section 71-3,177, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 ~~71-3,177~~ Each of the following may be considered an act  
16 of unprofessional conduct when committed by a person licensed or  
17 registered under the Nebraska Cosmetology, Electrology, Esthetics,  
18 Nail Technology, and Body Art Practice Act:

19 (1) Performing any of the practices regulated under  
20 the Nebraska Cosmetology Act act for which an individual is not  
21 licensed or registered or operating an establishment or facility  
22 without the appropriate license;

23 (2) Obstructing, interfering, or failing to cooperate  
24 with an inspection or investigation conducted by an authorized  
25 representative of the department when acting in accordance with the



1 ~~Nebraska Cosmetology Act, act;~~

2 (3) Failing to report to the department a suspected  
3 violation of the ~~Nebraska Cosmetology Act, act;~~

4 (4) Aiding and abetting an individual to practice any of  
5 the practices regulated under the ~~Nebraska Cosmetology Act~~ act for  
6 which he or she is not licensed or registered;

7 (5) Engaging in any of the practices regulated under the  
8 ~~Nebraska Cosmetology Act~~ act for compensation in an unauthorized  
9 location;

10 (6) Engaging in the practice of any healing art or  
11 profession for which a license is required without holding such a  
12 license;

13 (7) Enrolling a student or an apprentice without  
14 ~~submitting a complete student entrance notification to the~~  
15 ~~department, obtaining the appropriate documents prior to~~  
16 enrollment;

17 (8) Knowingly falsifying any student or apprentice record  
18 or report;

19 (9) Initiating or continuing home services to a client  
20 who does not meet the criteria established in the ~~Nebraska~~  
21 ~~Cosmetology Act, act;~~

22 (10) Knowingly issuing a certificate of completion or  
23 diploma to a student or an apprentice who has not completed all  
24 requirements for the issuance of such document;

25 (11) Failing, by a school of cosmetology, a nail

1 technology school, a school of esthetics, or an apprentice salon,  
2 to follow its published rules;

3 (12) Violating, by a school of cosmetology, nail  
4 technology school, or school of esthetics, any federal or state  
5 law involving the operation of a vocational school or violating  
6 any federal or state law involving participation in any federal or  
7 state loan or grant program;

8 (13) Knowingly permitting any person under supervision to  
9 violate any law, rule, or regulation or knowingly permitting any  
10 establishment or facility under supervision to operate in violation  
11 of any law, rule, or regulation;

12 (14) Receiving two unsatisfactory inspection reports  
13 within any sixty-day period;

14 (15) Engaging in any of the practices regulated under  
15 the ~~Nebraska Cosmetology Act~~ act while afflicted with any active  
16 case of a serious contagious disease, infection, or infestation, as  
17 determined by the department, or in any other circumstances when  
18 such practice might be harmful to the health or safety of clients;

19 (16) Violating any rule or regulation relating to the  
20 practice of body art; and

21 (17) Performing body art on or to any person under  
22 eighteen years of age (a) without the prior written consent of  
23 the parent or court-appointed guardian of such person, (b) without  
24 the presence of such parent or guardian during the procedure, or  
25 (c) without retaining a copy of such consent for a period of five

1 years.

2           Sec. 434. Sections 434 to 484 of this act shall be known  
3 and may be cited as the Dentistry Practice Act.

4           Sec. 435. For purposes of the Dentistry Practice Act  
5 and elsewhere in the Uniform Credentialing Act, unless the context  
6 otherwise requires, the definitions found in sections 436 to 446 of  
7 this act apply.

8           Sec. 436. Accredited dental hygiene program means a  
9 program that is accredited by the American Dental Association  
10 Commission on Dental Accreditation, which is an agency recognized  
11 by the United States Department of Education as an accrediting  
12 body, that is within a school or college approved by the board,  
13 and that requires a dental hygiene curriculum of not less than two  
14 academic years.

15           Sec. 437. Accredited school or college of dentistry means  
16 a school or college approved by the board and accredited by the  
17 American Dental Association Commission on Dental Accreditation,  
18 which is an agency recognized by the United States Department of  
19 Education as an accrediting body.

20           Sec. 438. Analgesia means the diminution or elimination  
21 of pain in the conscious patient.

22           Sec. 439. Board means the Board of Dentistry.

23           Sec. 440. Section 71-183.02, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~71-183.02 For purposes of sections 71-183 to 71-193.20,~~

1 ~~dental~~ Dental assistant means a person, other than a dental  
2 hygienist, employed by a licensed dentist for the purpose of  
3 assisting such dentist in the performance of his or her clinical  
4 and clinical-related duties.

5           Sec. 441. General anesthesia means a controlled state  
6 of unconsciousness accompanied by a partial or complete loss  
7 of protective reflexes, including the inability to independently  
8 maintain an airway and respond purposefully to physical  
9 stimulation or verbal command, and produced by a pharmacologic or  
10 nonpharmacologic method or a combination thereof.

11           Sec. 442. General supervision means the directing of the  
12 authorized activities of a dental hygienist or dental assistant  
13 by a licensed dentist and shall not be construed to require the  
14 physical presence of the supervisor when directing such activities.

15           Sec. 443. Indirect supervision means supervision when the  
16 licensed dentist authorizes the procedure to be performed by a  
17 dental hygienist or dental assistant and the licensed dentist is  
18 physically present on the premises when such procedure is being  
19 performed by the dental hygienist pursuant to section 464 of this  
20 act or the dental assistant.

21           Sec. 444. Inhalation analgesia means the administration  
22 of nitrous oxide and oxygen to diminish or eliminate pain in a  
23 conscious patient.

24           Sec. 445. Parenteral means administration other than  
25 through the digestive tract, including, but not limited to,

1 intravenous administration.

2           Sec. 446. Sedation means a depressed level of  
3 consciousness in which the patient's ability to independently  
4 and continuously maintain an airway and respond appropriately  
5 to physical stimulation or verbal command is retained and which  
6 is produced by a pharmacologic or nonpharmacologic method or a  
7 combination thereof.

8           Sec. 447. The board shall have ten members. The members  
9 shall consist of two public members; six licensed dentists,  
10 including one official or member of the instructional staff from  
11 each accredited school or college of dentistry in this state; and  
12 two licensed dental hygienists.

13           Sec. 448. Section 71-183, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           ~~71-183~~ For the purpose of Chapter 71, article 1, any Any  
16 person shall be deemed to be practicing dentistry who:

17           (1) Performs, or attempts or professes to perform, any  
18 dental operation or oral surgery or dental service of any kind,  
19 gratuitously or for a salary, fee, money, or other remuneration  
20 paid, or to be paid directly or indirectly, to ~~himself~~ such person  
21 or to any other person or agency who is a proprietor of a place  
22 where dental operations, oral surgery, or dental services are  
23 performed;

24           (2) Directly or indirectly, by any means or method, takes  
25 impression of the human tooth, teeth, jaws, or performs any phase

1 of any operation incident to the replacement of a part of a tooth;

2 (3) Supplies artificial substitutes for the natural  
3 teeth, or ~~who~~ furnishes, supplies, constructs, reproduces, or  
4 repairs any prosthetic denture, bridge, appliance, or ~~any~~ other  
5 structure to be worn in the human mouth, except on the written work  
6 authorization of a duly licensed and registered dentist;

7 (4) Places such appliance or structure in the human  
8 mouth, ~~or~~ adjusts or attempts or professes to adjust the same, or  
9 delivers the same to any person other than the dentist upon whose  
10 work authorization the work was performed;

11 (5) Professes to the public by any method to furnish,  
12 supply, construct, reproduce, or repair any prosthetic denture,  
13 bridge, appliance, or other structure to be worn in the human  
14 mouth;

15 (6) Diagnoses, ~~or~~ professes to diagnose, ~~prescribe~~  
16 prescribes for, ~~or~~ professes to prescribe for, treats, or professes  
17 to treat disease, pain, deformity, deficiency, injury, or physical  
18 condition of the human teeth or jaws, or adjacent structure;

19 (7) Extracts, or attempts to extract, human teeth, or  
20 corrects or attempts to correct, malformations of teeth or of the  
21 jaws;

22 (8) Repairs or fills cavities in the human teeth;

23 (9) Diagnoses, makes, and adjusts appliances to  
24 artificial casts or malposed teeth for treatment of the malposed  
25 teeth in the human mouth, with or without instruction;

1           (10) Uses a roentgen or X-ray machine for the purpose of  
2 taking dental X-rays or roentgenograms;

3           (11) Gives or professes to give, interpretations or  
4 readings of dental X-rays or roentgenograms;

5           (12) Administers an anesthetic of any nature in  
6 connection with a dental operation;

7           (13) Uses the words dentist, dental surgeon, or oral  
8 surgeon, ~~or~~ the letters D.D.S., or D.M.D., or any other words,  
9 letters, title, or descriptive matter which in any way represents  
10 ~~him~~ such person as being able to diagnose, treat, prescribe, or  
11 operate for any disease, pain, deformity, deficiency, injury, or  
12 physical condition of the teeth or jaws or adjacent structures; or

13           (14) States, ~~or~~ professes, or permits to be stated or  
14 professed by any means or method whatsoever that he or she can  
15 perform or will attempt to perform dental operations, or render a  
16 diagnosis connected therewith.

17           Sec. 449. Section 71-183.01, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           ~~71-183.01 Nothing in section 71-183~~ The Dentistry  
20 Practice Act shall not apply to:

21           (1) The practice of his or her profession by a physician  
22 or surgeon licensed as such under the laws of this state unless he  
23 or she practices dentistry as a specialty;

24           (2) The giving by a qualified anesthetist or registered  
25 nurse of an anesthetic for a dental operation under the direct

1 supervision of a licensed dentist or physician;

2 (3) The practice of dentistry ~~in the discharge of their~~  
3 ~~official duties~~ by graduate dentists or dental surgeons who serve  
4 in the armed forces of the United States or the United States  
5 ~~Army, Navy, Public Health Service, Coast Guard,~~ or who are employed  
6 by the United States Department of Veterans Affairs or other  
7 federal agencies, if their practice is limited to that service or  
8 employment;

9 (4) The practice of dentistry by a licensed dentist  
10 of other states or countries at meetings of the Nebraska  
11 Dental Association or components thereof, or other like dental  
12 organizations approved by the Board of Dentistry, while appearing  
13 as clinicians;

14 ~~(5) The practice of dentistry by a person duly licensed~~  
15 ~~to practice dentistry in another state who has been recommended by~~  
16 ~~the secretary of the board of examiners in the state of licensure~~  
17 ~~and who has been granted temporary practice rights by the Board of~~  
18 ~~Dentistry, with the approval of the department, for a period not to~~  
19 ~~exceed three months in any twelve-month period, if the requirements~~  
20 ~~regarding education and examination for licensure in the state~~  
21 ~~of licensure are equal to or exceed the requirements regarding~~  
22 ~~education and examination for licensure in Nebraska;~~

23 ~~(6) (5) The filling of work authorizations of a licensed~~  
24 ~~and registered dentist as provided in this subdivision by any~~  
25 ~~person or persons, association, corporation, or other entity for~~



1 the construction, reproduction, or repair of prosthetic dentures,  
2 bridges, plates, or appliances to be used or worn as substitutes  
3 for natural teeth if such person or persons, association,  
4 corporation, or other entity does not solicit or advertise,  
5 directly or indirectly by mail, card, newspaper, pamphlet, radio,  
6 or otherwise, to the general public to construct, reproduce, or  
7 repair prosthetic dentures, bridges, plates, or other appliances to  
8 be used or worn as substitutes for natural teeth;

9           ~~(7)~~ (6) The use of roentgen or X-ray machines or other  
10 rays for making radiograms or similar records of dental or oral  
11 tissues under the supervision of a licensed dentist or physician  
12 if such service is not advertised by any name whatever as an  
13 aid or inducement to secure dental patronage, and no person shall  
14 advertise that he or she has, leases, owns, or operates a roentgen  
15 or X-ray machine for the purpose of making dental radiograms of  
16 the human teeth or tissues or the oral cavity or administering  
17 treatment thereto for any disease thereof;

18           ~~(8)~~ (7) The performance by a licensed dental hygienist,  
19 under the supervision of a licensed dentist, of the oral  
20 prophylaxis procedure which shall include the scaling and polishing  
21 of teeth and such additional procedures as are prescribed in  
22 accordance with rules and regulations adopted by the department;

23           ~~(9)~~ (8) The performance by a dental assistant, under  
24 the supervision of a licensed dentist, of duties prescribed in  
25 accordance with rules and regulations adopted by the department; ~~or~~

1           ~~(10)~~ (9) The performance by a licensed dental hygienist,  
2 by virtue of training and professional ability, under the  
3 supervision of a licensed dentist, of taking dental roentgenograms.  
4 Any other person is hereby authorized, under the supervision of a  
5 licensed dentist, to take dental roentgenograms but shall not be  
6 authorized to do so until he or she has satisfactorily completed a  
7 course in dental radiology recommended by the board and approved  
8 by the department;

9           (10) Students of dentistry who practice dentistry upon  
10 patients in clinics in the regular course of instruction at an  
11 accredited school or college of dentistry;

12           (11) Licensed physicians and surgeons who extract teeth  
13 or treat diseases of the oral cavity, gums, teeth, or maxillary  
14 bones as an incident to the general practice of their profession;  
15 or

16           (12) Dental hygiene students who practice dental hygiene  
17 upon patients in clinics in the regular course of instruction at an  
18 accredited dental hygiene program. Such dental hygiene students are  
19 also not engaged in the unauthorized practice of dental hygiene.

20           Sec. 450. Section 71-185, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           ~~71-185~~ (1) Every applicant for a license to practice  
23 dentistry shall ~~(1)~~ (a) present proof of graduation with a Doctor  
24 of Dental Surgery degree or a Doctor of Dental Medicine degree  
25 from an accredited school or college of dentistry, (b) and ~~(2)~~

1 pass an examination approved by the Board of Dentistry which shall  
2 consist of the National Board Dental Examinations, both Part I and  
3 Part II, as constructed and administered by the American Dental  
4 Association Joint Commission on National Dental Examinations, (c)  
5 demonstrate the applicant's skill in clinical dentistry by passing  
6 the practical examination administered by the Central Regional  
7 Dental Testing Service or any other regional or state practical  
8 examination that the Board of Dentistry determines to be comparable  
9 to such practical examination, (d) pass a jurisprudence examination  
10 approved by the board that is based on the Nebraska statutes,  
11 rules, and regulations governing the practice of dentistry and  
12 dental hygiene, and (e) demonstrate continuing clinical competency  
13 as a condition of licensure if required by the board.

14 (2) Upon completion of these requirements, the  
15 department, with the recommendation of the board, shall issue the  
16 applicant a license to practice dentistry. prescribed by the Board  
17 of Dentistry which shall be elementary and practical in character  
18 but sufficiently thorough to test the fitness of the candidate to  
19 practice dentistry. Such examination shall include questions on  
20 anatomy, physiology, chemistry, dental materials, materia medica,  
21 therapeutics, histology, pathology, oral surgery, operative and  
22 prosthetic dentistry, dental jurisprudence, and such other subjects  
23 as are usually found in the curriculum of a dental college.  
24 Demonstrations of the applicant's skill in clinical dentistry shall  
25 also be required.

1           The department shall accept, upon the recommendation  
2 of the board and in lieu of the examination, a certificate of  
3 examination issued by the National Board of Dental Examiners of  
4 the United States of America. Every applicant for a license upon  
5 the basis of such certificate shall be required to pay the fee  
6 for licenses issued in dentistry without examination based upon a  
7 certificate by examination held by the National Board of Dental  
8 Examiners of the United States of America.

9           Each Nebraska-licensed dentist and dental hygienist in  
10 active practice within the State of Nebraska shall, on or before  
11 March 1 of each odd-numbered year, complete continuing competency  
12 activities as required by the Board of Dentistry pursuant to  
13 section 71-161.09 as a prerequisite for the licensee's next  
14 subsequent license renewal.

15           Sec. 451. Section 71-193.04, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-193.04 Any person (1) of good moral character, (2) who  
18 has attained the age of eighteen years, and (3) who is a graduate  
19 of a training school for dental hygienists that is accredited  
20 by the Commission on Dental Accreditation of the American Dental  
21 Association and is approved by the Board of Dentistry and that  
22 requires a course of not less than two academic years may be  
23 examined by such board on the subjects considered essential by it  
24 for a dental hygienist. Upon passage of the examination, the board  
25 shall recommend to the department that a license to practice as a

1 ~~dental hygienist be issued.~~

2           (1) Every applicant for a license to practice dental  
3 hygiene shall (a) present proof of graduation from an accredited  
4 dental hygiene program, (b) pass an examination approved by the  
5 Board of Dentistry which shall consist of the National Board  
6 Dental Hygiene Examination as constructed and administered by the  
7 American Dental Association Joint Commission on National Dental  
8 Examinations, (c) demonstrate the applicant's skill in clinical  
9 dental hygiene by passing the practical examination administered  
10 by the Central Regional Dental Testing Service or any other  
11 regional or state practical examination that the Board of Dentistry  
12 determines to be comparable to such practical examination, (d)  
13 pass a jurisprudence examination approved by the board that is  
14 based on the Nebraska statutes, rules, and regulations governing  
15 the practice of dentistry and dental hygiene, and (e) demonstrate  
16 continuing clinical competency as a condition of licensure if  
17 required by the board.

18           (2) Upon completion of these requirements, the  
19 department, with the recommendation of the board, shall issue the  
20 applicant a license to practice dental hygiene.

21           Sec. 452. Any person who applies for a license to  
22 practice dentistry or dental hygiene and who has failed on two  
23 occasions to pass any part of the practical examination shall  
24 be required to complete a course in clinical dentistry or dental  
25 hygiene approved by the board before the department may consider

1 the results of a third examination as a valid qualification for a  
2 license to practice dentistry or dental hygiene in the State of  
3 Nebraska.

4           Sec. 453. Every applicant for a license to practice  
5 dentistry based on a license in another state or territory of  
6 the United States or the District of Columbia shall meet the  
7 standards set by the board pursuant to section 26 of this act  
8 and shall have been actively engaged in the practice of dentistry  
9 for at least three years, one of which must be within the three  
10 years immediately preceding the application, under a license in  
11 another state or territory of the United States or the District of  
12 Columbia. Practice in an accredited school or college of dentistry  
13 for the purpose of completing a postgraduate or residency program  
14 in dentistry also serves as active practice toward meeting this  
15 requirement.

16           Sec. 454. Every applicant for a license to practice  
17 dental hygiene based on a license in another state or territory  
18 of the United States or the District of Columbia shall meet the  
19 standards set by the board pursuant to section 26 of this act and  
20 shall have been actively engaged in the practice of dental hygiene  
21 for at least three years, one of which must be within the three  
22 years immediately preceding the application, under a license in  
23 another state or territory of the United States or the District  
24 of Columbia. Practice in an accredited dental hygiene program for  
25 the purpose of completing a postgraduate or residency program in

1 dental hygiene also serves as active practice toward meeting this  
2 requirement.

3           Sec. 455. When circumstances indicate a need for the  
4 issuance of a dental locum tenens in the State of Nebraska, the  
5 department, with the recommendation of the board, may issue a  
6 dental locum tenens to an individual who holds an active license to  
7 practice dentistry in another state if the requirements regarding  
8 education and examination for licensure in that state are equal to  
9 or exceed the requirements regarding education and examination for  
10 licensure in Nebraska. A dental locum tenens may be issued for a  
11 period not to exceed ninety days in any twelve-month period.

12           Sec. 456. Section 71-185.02, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~71-185.02~~ (1) The department, with the ~~upon~~  
15 recommendation of the Board of Dentistry board, shall issue  
16 a temporary license to any person who ~~(1)~~ (a) has met the  
17 requirements for a license to practice dentistry as set forth  
18 in section 71-185 and ~~who~~ 450 of this act, (b) is enrolled in  
19 an accredited school or college of dentistry for the purpose of  
20 completing a postgraduate or residency program in dentistry, and  
21 (c) and ~~(2)~~ is licensed in another jurisdiction under conditions  
22 which the board finds equivalent to the requirements of the State  
23 of Nebraska for obtaining a license to practice dentistry.

24           (2) Any person who desires a temporary license shall  
25 make application to the department. Such application shall be

1 accompanied by the required fee.

2 (3) The temporary license shall be issued for a period of  
3 one year and, upon application to the department, renewed annually  
4 without the licensee having to pay a renewal fee.

5 (4) The temporary licensee shall be entitled to practice  
6 dentistry, including prescribing legend drugs and controlled  
7 substances, only under the auspices of the postgraduate or  
8 residency program in which he or she is enrolled.

9 Sec. 457. Section 71-185.03, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 ~~71-185.03~~ (1) The department, with the ~~upon~~  
12 recommendation of the ~~Board of Dentistry~~ board, shall issue  
13 a faculty license to any person who meets the requirements of  
14 subsection (3) or (4) ~~or (5)~~ of this section. A faculty licensee  
15 may practice dentistry only as a faculty member at a ~~dental~~  
16 ~~education institution~~ an accredited school or college of dentistry  
17 in the State of Nebraska ~~accredited by the Commission on Dental~~  
18 ~~Accreditation of the American Dental Association, the Commission~~  
19 ~~on Dental Accreditation of Canada, or similar organization as~~  
20 ~~determined by the board~~ and may teach dentistry, conduct research,  
21 and participate in an institutionally administered faculty practice  
22 only at such ~~dental education institution~~, accredited school or  
23 college of dentistry. A faculty licensee eligible for licensure  
24 under subsection ~~(5)~~ (4) of this section shall limit his or  
25 her practice to the clinical discipline in which he or she has



1 received postgraduate education at an accredited ~~dental education~~  
2 ~~institution,~~ school or college of dentistry.

3 (2) Any person who desires a faculty license shall  
4 make a written application to the department. The application  
5 shall include information regarding the applicant's professional  
6 qualifications, experience, and licensure. The application shall  
7 be accompanied by a copy of the applicant's dental degree, any  
8 other degrees or certificates for postgraduate education of the  
9 applicant, the required fee, and certification from the dean of  
10 an accredited ~~dental education institution~~ school or college of  
11 dentistry in the State of Nebraska ~~that~~ at which the applicant has  
12 a contract to be employed as a full-time faculty member, ~~at such~~  
13 ~~institution.~~

14 ~~(3) A faculty license shall expire at the same time and~~  
15 ~~be subject to the same renewal requirements as a regular dental~~  
16 ~~license, except that such license shall remain valid and may only~~  
17 ~~be renewed if:~~

18 ~~(a) The faculty licensee remains employed as a full-time~~  
19 ~~faculty member of an accredited dental education institution in the~~  
20 ~~State of Nebraska; and~~

21 ~~(b) The faculty licensee demonstrates continuing clinical~~  
22 ~~competency if required by the board.~~

23 ~~(4) (3) An individual who graduated from an accredited~~  
24 ~~dental education institution~~ school or college of dentistry shall  
25 be eligible for a faculty license if he or she:

1 (a) Has or had a license to practice dentistry within  
2 the past five years in some other state in the United States or a  
3 Canadian province;

4 (b) Has a contract to be employed as a full-time faculty  
5 member at an accredited ~~dental education institution~~ school or  
6 college of dentistry in the State of Nebraska;

7 (c) Passes a jurisprudence examination administered by  
8 the ~~Board of Dentistry;~~ board; and

9 (d) Agrees to demonstrate continuing clinical competency  
10 as a condition of ~~renewal~~ licensure if required by the board.

11 ~~(5)~~ (4) An individual who graduated from a nonaccredited  
12 ~~dental education institution~~ school or college of dentistry shall  
13 be eligible for a faculty license if he or she:

14 (a) Has completed at least two years of postgraduate  
15 education at an accredited ~~dental education institution~~ school or  
16 college of dentistry and received a certificate or degree from such  
17 ~~institution;~~ school or college of dentistry;

18 (b) Has a contract to be employed as a full-time faculty  
19 member at an accredited ~~dental education institution~~ school or  
20 college of dentistry in the State of Nebraska;

21 (c) Passes a jurisprudence examination administered by  
22 the ~~Board of Dentistry;~~ board;

23 (d) Agrees to demonstrate continuing clinical competency  
24 as a condition of ~~renewal~~ licensure if required by the board; and

25 (e) Has passed Part I and Part II of the National Board

1 Dental Examinations or its equivalent as determined by the Board of  
2 Dentistry.

3 (5) A faculty license shall expire at the same time and  
4 be subject to the same renewal requirements as a regular dental  
5 license, except that such license shall remain valid and may only  
6 be renewed if:

7 (a) The faculty licensee remains employed as a full-time  
8 faculty member of an accredited school or college of dentistry in  
9 the State of Nebraska; and

10 (b) The faculty licensee demonstrates continuing clinical  
11 competency if required by the board.

12 Sec. 458. Section 71-185.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-185.01~~ (1) For purposes of this section,  
15 practitioner's facility ~~shall mean~~ means a facility in which a  
16 licensed dentist practices his or her profession, other than a  
17 facility licensed pursuant to the Health Care Facility Licensure  
18 Act.

19 (2) The department shall adopt and promulgate rules and  
20 regulations which are approved by the State Board of Health for  
21 practitioners' facilities in order to insure that such facilities  
22 are safe and sanitary and use precautions necessary to prevent  
23 the creation and spread of infectious and contagious diseases.  
24 Based upon a formal complaint, the department or its employees  
25 may inspect any practitioner's facility in this state to insure

1 compliance with such regulations.

2 (3) Within thirty days after an inspection of a  
3 practitioner's facility which the department or its employees find  
4 to be in violation of its rules and regulations, the department  
5 shall notify the Board of Dentistry of its findings in writing. The  
6 ~~department~~ Attorney General shall file a petition for disciplinary  
7 action pursuant to section ~~71-150~~ 86 of this act if the violation  
8 of the rules and regulations is not corrected within thirty days  
9 after the licensee has received notice of such violation. The  
10 department shall send a written progress report of its inspection  
11 and actions taken to the board.

12 (4) It shall be considered unprofessional conduct for a  
13 licensee to practice in a facility that does not comply with the  
14 rules and regulations regarding sanitary practitioners' facilities.

15 Sec. 459. The department shall establish and collect fees  
16 for credentialing under the Dentistry Practice Act as provided in  
17 sections 51 to 57 of this act.

18 Sec. 460. Section 71-189, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~71-189~~ Every person who owns, operates, or controls a  
21 dental office in which anyone other than himself or herself is  
22 practicing dentistry, shall display the name of such person or  
23 persons in a conspicuous place at the public entrance to such  
24 office.

25 Sec. 461. Section 71-190, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-190~~ (1) No person owning, operating, or conducting any  
3 place where dental work of any kind is done or contracted for shall  
4 employ or permit any unlicensed dentist to practice dentistry in  
5 such place.

6 (2) No person shall coerce or attempt to coerce a  
7 licensed dentist to practice dentistry in any manner contrary to  
8 the standards of acceptable and prevailing practice of the dental  
9 profession. Any dentist subjected to such coercion or attempted  
10 coercion has a cause of action against the person and may recover  
11 his or her damages and reasonable attorney's fees.

12 (3) Violation of this section by a health care  
13 professional regulated pursuant to the Uniform Licensing Law  
14 Credentialing Act may be considered evidence of an act of  
15 unprofessional conduct.

16 ~~(4) Violation of this section by a person not regulated~~  
17 ~~under the Uniform Licensing Law is a Class III misdemeanor.~~

18 Sec. 462. Section 71-191, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~71-191~~ No person shall operate any place in which  
21 dentistry is practiced under any other name than his or her  
22 own, or display, in connection with his or her practice, or on any  
23 advertising matter, any other than his or her own name. Two ~~but~~  
24 ~~two~~ or more licensed dentists, who are associated in the practice,  
25 may use all of their names. A widow, widower, or heir of a deceased

1 dentist may operate such office under the name of the deceased  
2 dentist for a period of not longer than one year from the date of  
3 death.

4           Sec. 463. Section 71-193.15, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           ~~71-193.15~~ A licensed dental hygienist shall perform the  
7 traditional dental hygiene functions set forth in section ~~71-193.17~~  
8 464 of this act only when authorized to do so by a licensed  
9 dentist who shall be responsible for the total oral health care  
10 of the patient. The ~~Department of Health and Human Services~~  
11 ~~Regulation and Licensure~~ department, in the conduct of public  
12 health-related services, may authorize a licensed dental hygienist  
13 to conduct preliminary charting and screening examinations, provide  
14 oral health education for patients including the teaching of  
15 appropriate plaque control techniques, and perform or provide all  
16 of the duties that any dental assistant is authorized to perform.

17           Sec. 464. Section 71-193.17, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-193.17~~ When properly authorized, a licensed dental  
20 hygienist, under the general supervision of a licensed dentist, may  
21 perform the following intra and extra oral procedures:

22           (1) Scaling of teeth, including subgingival regions and  
23 root planing with hand and ultrasonic instruments;

24           (2) Polish all exposed tooth surfaces with motor-driven  
25 and hand instruments in the oral prophylaxis procedure, including

- 1 polishing amalgam restorations;
- 2 (3) Conduct preliminary charting and screening
- 3 examinations;
- 4 (4) Periodontal probing and charting;
- 5 (5) Gingival curettage;
- 6 (6) Place and remove periodontal dressings;
- 7 (7) Remove sutures;
- 8 (8) Provide preventive measures, such as the application
- 9 of fluorides, sealants, and other recognized topical agents for the
- 10 prevention of oral disease;
- 11 (9) Provide impressions for study casts;
- 12 (10) Apply topical desensitizing agents;
- 13 (11) Provide radiographic exposures;
- 14 (12) Provide oral health education for patients,
- 15 including the teaching of appropriate plaque control techniques;
- 16 and
- 17 (13) Perform or provide all of the duties that any dental
- 18 assistant is authorized to perform.

19 Sec. 465. Section 71-193.18, Reissue Revised Statutes of

20 Nebraska, is amended to read:

21 ~~71-193.18~~ (1) A licensed dental hygienist may monitor

22 nitrous oxide analgesia under the indirect supervision of a

23 licensed dentist.

24 (2) A licensed dental hygienist may be approved by

25 the department, ~~upon~~ with the recommendation of the ~~Board~~ of

1 ~~Dentistry~~, board, to administer local anesthesia under the indirect  
2 supervision of a licensed dentist. The ~~department~~ board may, ~~upon~~  
3 ~~the recommendation of the board~~, prescribe by rule and regulation:  
4 The necessary education and preparation, which shall include, but  
5 not be limited to, instruction in the areas of head and neck  
6 anatomy, osteology, physiology, pharmacology, medical emergencies,  
7 and clinical techniques; the necessary clinical experience; and the  
8 necessary examination for purposes of determining the competence  
9 of licensed dental hygienists to administer local anesthesia. ~~Upon~~  
10 ~~the recommendation of the board~~, the department The board may  
11 approve successful completion after July 1, 1994, of a course of  
12 instruction to determine competence to administer local anesthesia.  
13 The course of instruction must be at an ~~institution~~ accredited  
14 ~~by a regional or professional accrediting organization which~~  
15 ~~is recognized by the United States Department of Education and~~  
16 ~~approved by the Department of Health and Human Services Regulation~~  
17 ~~and Licensure.~~ accredited school or college of dentistry or an  
18 accredited dental hygiene program. The course of instruction must  
19 be taught by a faculty member or members of the ~~institution~~ school  
20 or college of dentistry or dental hygiene program presenting the  
21 course. The ~~department~~ board may approve for purposes of this  
22 subsection a course of instruction if such course includes:  
23 (a) At least twelve clock hours of classroom lecture,  
24 including instruction in (i) medical history evaluation procedures,  
25 (ii) anatomy of the head, neck, and oral cavity as it relates to



1 administering local anesthetic agents, (iii) pharmacology of local  
2 anesthetic agents, vasoconstrictor, and preservatives, including  
3 physiologic actions, types of anesthetics, and maximum dose per  
4 weight, (iv) systemic conditions which influence selection and  
5 administration of anesthetic agents, (v) signs and symptoms of  
6 reactions to local anesthetic agents, including monitoring of vital  
7 signs, (vi) management of reactions to or complications associated  
8 with the administration of local anesthetic agents, (vii) selection  
9 and preparation of the armamentaria for administering various  
10 local anesthetic agents, and (viii) methods of administering local  
11 anesthetic agents;

12 (b) At least twelve clock hours of clinical instruction  
13 during which time at least three injections of each of the  
14 anterior, middle and posterior superior alveolar, naso and greater  
15 palatine, inferior alveolar, lingual, mental, long buccal, and  
16 infiltration injections are administered; and

17 (c) Procedures, which shall include an examination, for  
18 purposes of determining whether the hygienist has acquired the  
19 necessary knowledge and proficiency to administer local anesthetic  
20 agents.

21 Sec. 466. Section 71-193.19, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-193.19 The Department of Health and Human Services~~  
24 ~~Regulation and Licensure~~ department, with the recommendation of  
25 the board, may, by rule and regulation, prescribe functions,

1 procedures, and services in addition to those in section ~~71-193.17~~  
2 464 of this act which may be performed by a licensed dental  
3 hygienist under the supervision of a licensed dentist when such  
4 additional procedures are educational or related to the oral  
5 prophylaxis and intended to attain or maintain optimal oral health.

6 Sec. 467. Section 71-193.20, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~71-193.20~~ The department, with ~~upon~~ the recommendation  
9 of the ~~Board of Dentistry~~ board, may adopt and promulgate rules  
10 and regulations providing for employment or work-setting facilities  
11 required for the provision of dental services by a licensed dental  
12 hygienist.

13 Sec. 468. Section 71-193.13, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~71-193.13~~ Any licensed dentist, public institution, or  
16 school may employ dental assistants, in addition to licensed  
17 dental hygienists. Such dental assistants, under the supervision  
18 of a licensed dentist, may perform such duties as are prescribed  
19 in accordance with rules and regulations adopted and promulgated  
20 by the ~~Department of Health and Human Services Regulation and~~  
21 ~~Licensure.~~ department, with the recommendation of the board.

22 Sec. 469. Section 71-193.14, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 ~~71-193.14~~ The ~~Board of Dentistry~~ shall recommend  
25 department, with the recommendation of the board, shall adopt and

1 promulgate rules and regulations ~~to the department~~ governing the  
2 performance of duties by licensed dental hygienists and dental  
3 assistants. ~~The department shall adopt rules and regulations for~~  
4 ~~such purpose upon the recommendations being submitted by the board.~~

5           Sec. 470. Section 71-193.23, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           ~~71-193.23 Except as provided in section 71-193.24,~~ after  
8 ~~October 1, 1987,~~ a A dentist licensed in this state shall not  
9 administer ~~parenteral sedation,~~ general anesthesia, parenteral  
10 sedation, or inhalation analgesia in the practice of dentistry  
11 unless he or she has been issued a permit to administer general  
12 anesthesia, parenteral sedation, or inhalation analgesia pursuant  
13 to the Dental Anesthesia Dentistry Practice Act.

14           Sec. 471. Section 71-193.25, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           ~~71-193.25 Violations of the Dental Anesthesia Act~~ A  
17 violation of provisions of the Dentistry Practice Act relating to  
18 the administration of general anesthesia, parenteral sedation, or  
19 inhalation analgesia may result in action against the dentist's  
20 permit, license, or both pursuant to sections 71-155 to 71-161.18.  
21 section 96 of this act.

22           Sec. 472. Section 71-193.26, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           ~~71-193.26~~ The department, ~~upon~~ with the recommendation  
25 of the board, shall issue a permit to a Nebraska-licensed dentist

1 to administer general anesthesia on an outpatient basis to dental  
2 patients if the dentist:

3 (1) Maintains a properly equipped facility for the  
4 administration of general anesthesia as determined by the board;

5 (2) Is currently certified in basic life-support skills  
6 or the equivalent thereof;

7 (3) Has successfully completed an onsite evaluation  
8 covering the areas of physical evaluation, monitoring, sedation,  
9 and emergency medicine; and

10 (4) Meets at least one of the following criteria:

11 (a) Has completed one year of advanced training in  
12 anesthesiology and related academic subjects beyond the dental  
13 school level in an approved training program;

14 (b) Is a diplomate of the American Board of Oral and  
15 Maxillofacial Surgery;

16 (c) Has completed the educational requirements for  
17 eligibility for examination by the American Board of Oral and  
18 Maxillofacial Surgery; or

19 (d) Is a fellow of the American Dental Society of  
20 Anesthesiology. + ~~or~~

21 ~~(e) Is a licensed dentist who has been administering~~  
22 ~~general anesthesia in a competent and efficient manner as~~  
23 ~~determined by the board for ten of the twelve years immediately~~  
24 ~~preceding October 1, 1988.~~

25 A dentist who has been issued a permit pursuant to

1 this section may administer ~~intravenous~~ parenteral sedation or  
2 inhalation analgesia.

3 Sec. 473. Section 71-193.27, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-193.27~~ The department, ~~upon~~ with the recommendation  
6 of the board, shall issue a permit to a Nebraska-licensed dentist  
7 to administer parenteral sedation on an outpatient basis to dental  
8 patients if the dentist:

9 (1) Maintains a properly equipped facility for the  
10 administration of parenteral sedation as determined by the board;

11 (2) Is currently certified in basic life-support skills  
12 or the equivalent thereof;

13 (3) Has successfully completed an onsite evaluation  
14 covering the areas of physical evaluation, monitoring, sedation,  
15 and emergency medicine; and

16 ~~(4)-(a)~~ (4) Is certified as competent in the  
17 administration of parenteral sedation and in handling all  
18 related emergencies by a university, teaching hospital, or other  
19 facility approved by the board or by completing the curriculum  
20 of an accredited ~~dental school~~ or college of dentistry. Such  
21 certification shall specify the type, the number of hours, and the  
22 length of formal training completed at such ~~institution.~~ school  
23 or college of dentistry. The formal training shall include, but  
24 not be limited to, forty didactic hours and twenty patient contact  
25 hours, including documentation of a minimum of fifteen supervised

1 parenteral sedation cases. ~~or~~

2 ~~(b) Has been administering parenteral sedation on an~~  
3 ~~outpatient basis in a competent and efficient manner as determined~~  
4 ~~by the board for twelve months preceding October 1, 1988.~~

5 A dentist who has been issued a permit pursuant to this  
6 section may administer inhalation analgesia.

7 Sec. 474. Section 71-193.29, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-193.29~~ The department, ~~upon~~ with the recommendation of  
10 the board, shall issue a permit to a Nebraska-licensed dentist to  
11 administer inhalation analgesia on an outpatient basis to dental  
12 patients if the dentist:

13 (1) Maintains a properly equipped facility for the  
14 administration of inhalation analgesia as determined by the board;

15 (2) Is currently certified in basic life-support skills  
16 or the equivalent thereof; and

17 ~~(3)-(a)~~ (3) Has completed an approved two-day training  
18 course or equivalent training which may be acquired while studying  
19 at an accredited school or college of dentistry. ~~or (b) has been~~  
20 ~~administering inhalation analgesia on an outpatient basis in a~~  
21 ~~competent and efficient manner as determined by the board for~~  
22 ~~twelve months preceding October 1, 1988.~~

23 Sec. 475. Section 71-193.28, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~71-193.28~~ General anesthesia and parenteral sedation

1 shall not be administered by a dentist without the presence and  
2 assistance of a licensed dental hygienist or a dental assistant.

3 Sec. 476. Section 71-193.33, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-193.33~~ Any person who assists a dentist in the  
6 administration of general anesthesia, parenteral sedation, or  
7 inhalation analgesia shall be currently certified in basic  
8 life-support skills or the equivalent thereof.

9 Sec. 477. Section 71-193.30, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 ~~71-193.30~~ Nothing in the Dental Anesthesia Dentistry  
12 Practice Act shall be construed to allow a dentist to administer to  
13 himself or herself, or to any person other than in the course of  
14 the practice of dentistry, any drug or agent used for ~~anesthesia,~~  
15 ~~analgesia, or sedation.~~ general anesthesia, parenteral sedation, or  
16 inhalation analgesia.

17 Sec. 478. Section 71-193.31, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 ~~71-193.31~~ (1) Permits issued by the board for the  
20 administration of general anesthesia, parenteral sedation, or  
21 inhalation analgesia pursuant to sections 71-193.26, 71-193.27,  
22 and 71-193.29 the Dentistry Practice Act shall be valid for four  
23 years. until March 1 of the next odd-numbered year after issuance,  
24 except that permits issued or renewed prior to March 1, 2007, shall  
25 expire March 1, 2009.

1           (2) The department, ~~upon~~ with the recommendation of  
2 the board, shall adopt and promulgate rules and regulations to  
3 define criteria for the reevaluation of credentials, facilities,  
4 equipment, dental hygienists, and dental assistants and procedures  
5 of a previously qualified dentist to renew his or her permit for  
6 each ~~additional four-year period.~~ subsequent renewal.

7           Sec. 479. Section 71-193.32, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           ~~71-193.32~~ All practice locations of a dentist applying  
10 for a permit pursuant to sections ~~71-193.26, 71-193.27, and~~  
11 ~~71-193.29~~ to administer general anesthesia, parenteral sedation,  
12 or inhalation analgesia may be inspected at the discretion of the  
13 board. The board may contract to have such inspections performed.  
14 The board shall not delegate authority to review and to make  
15 recommendations on permit applications or to determine the persons  
16 or facilities to be inspected.

17           Sec. 480. Section 71-193.34, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-193.34~~ (1) All licensed dentists practicing in this  
20 state shall submit a report to the board within thirty days  
21 of any incident which results in death or physical or mental  
22 injury requiring hospitalization of a patient which occurs in  
23 the outpatient facilities of such dentist during, or as a direct  
24 result of, inhalation analgesia, parenteral sedation, or general  
25 anesthesia.



1 (2) The incident report shall include, but not be limited  
2 to:

3 (a) A description of the dental procedure;

4 (b) A description of the preoperative physical condition  
5 of the patient;

6 (c) A list of the drugs and the dosage administered;

7 (d) A detailed description of the techniques used in  
8 administering the drugs;

9 (e) A description of the incident, including, but not  
10 limited to, a detailed description of the symptoms of any  
11 complications, the symptoms of onset, and the type of symptoms  
12 in the patient;

13 (f) A description of the treatment instituted;

14 (g) A description of the patient's response to the  
15 treatment; and

16 (h) A description of the patient's condition on  
17 termination of any procedures undertaken.

18 (3) Failure to submit an incident report as required by  
19 this section shall result in the loss of the permit.

20 Sec. 481. Section 71-193.35, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 ~~71-193.35~~ The department, upon with the recommendation of  
23 the board, may adopt and promulgate rules and regulations necessary  
24 to carry out the ~~Dental Anesthesia Act.~~ provisions of the Dentistry  
25 Practice Act relating to permits to administer general anesthesia,

1 parenteral sedation, or inhalation analgesia.

2           Sec. 482. Section 71-193.01, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           ~~71-193.01~~ There is hereby established the Office of Oral  
5 Health and Dentistry in the ~~Department of Health and Human Services~~  
6 ~~Regulation and Licensure-~~ department. The head of such office shall  
7 be known as the Dental Health Director and shall be appointed by  
8 the department. The Dental Health Director shall give full time to  
9 his or her duties.

10           Sec. 483. Section 71-193.02, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           ~~71-193.02~~ The Dental Health Director shall be a graduate  
13 of an ~~approved~~ accredited school or college of dentistry and shall  
14 be licensed by the State of Nebraska to practice dentistry in  
15 Nebraska or duly licensed to practice dentistry in some other state  
16 of the United States of America.

17           Sec. 484. Section 71-193.03, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           ~~71-193.03~~ The duties of the Office of Oral Health and  
20 Dentistry shall be the promotion and development of activities  
21 which will result in the practice and improvement of the dental  
22 health of the people of the state under rules and regulations  
23 adopted and promulgated by the department.

24           Sec. 485. Section 71-5172, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~71-5172~~ Sections ~~71-5172 to 71-51,100~~ 485 to 521 of this  
2 act shall be known and may be cited as the Emergency Medical  
3 Services Practice Act.

4           Sec. 486. Section 71-5173, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           ~~71-5173~~ It is the intent of the Legislature in enacting  
7 the Emergency Medical Services Practice Act to (1) effectuate  
8 the delivery of quality out-of-hospital emergency medical care in  
9 the state, (2) eliminate duplication of statutory requirements,  
10 (3) merge the former boards responsible for regulating ambulance  
11 services and emergency medical care, (4) replace the former law  
12 regulating providers of and services delivering emergency medical  
13 care, (5) provide for the appropriate ~~certification~~ licensure of  
14 persons providing out-of-hospital medical care and licensure of  
15 organizations providing emergency medical services, (6) provide  
16 for the establishment of educational requirements and permitted  
17 practices for persons providing out-of-hospital emergency medical  
18 care, (7) provide a system for regulation of out-of-hospital  
19 emergency medical care which encourages out-of-hospital emergency  
20 care providers and emergency medical services to provide the  
21 highest degree of care which they are capable of providing, and (8)  
22 provide a flexible system for the regulation of out-of-hospital  
23 emergency care providers and emergency medical services that  
24 protects public health and safety.

25           The act shall be liberally construed to effect the

1 purposes of, carry out the intent of, and discharge the  
2 responsibilities prescribed in the act.

3 Sec. 487. Section 71-5174, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-5174~~ The Legislature finds:

6 (1) That out-of-hospital emergency medical care is a  
7 primary and essential health care service and that the presence  
8 of an adequately equipped ambulance and trained out-of-hospital  
9 emergency care providers may be the difference between life and  
10 death or permanent disability to those persons in Nebraska making  
11 use of such services in an emergency;

12 (2) That effective delivery of out-of-hospital emergency  
13 medical care may be assisted by a program of training and  
14 ~~certification~~ licensure of out-of-hospital emergency care providers  
15 and licensure of emergency medical services in accordance with  
16 rules and regulations ~~approved~~ adopted by the ~~Board of Emergency~~  
17 ~~Medical Services~~; board;

18 (3) That the Emergency Medical Services Practice Act is  
19 essential to aid in advancing the quality of care being provided by  
20 out-of-hospital emergency care providers and by emergency medical  
21 services and the provision of effective, practical, and economical  
22 delivery of out-of-hospital emergency medical care in the State of  
23 Nebraska;

24 (4) That the services to be delivered by out-of-hospital  
25 emergency care providers are complex and demanding and that

1 training and other requirements appropriate for delivery of the  
2 services must be constantly reviewed and updated; and

3 (5) That the enactment of a regulatory system that can  
4 respond to changing needs of patients and out-of-hospital emergency  
5 care providers and emergency medical services is in the best  
6 interests of the citizens of Nebraska.

7 Sec. 488. Section 71-5175, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-5175~~ For purposes of the Emergency Medical Services  
10 Practice Act and elsewhere in the Uniform Credentialing Act, unless  
11 the context otherwise requires, the definitions found in sections  
12 489 to 498 of this act apply. +

13 ~~(1) Ambulance means any privately or publicly owned motor~~  
14 ~~vehicle or aircraft that is especially designed, constructed or~~  
15 ~~modified, and equipped and is intended to be used and is maintained~~  
16 ~~or operated for the overland or air transportation of patients~~  
17 ~~upon the streets, roads, highways, airspace, or public ways in this~~  
18 ~~state, including funeral coaches or hearses, or any other motor~~  
19 ~~vehicles or aircraft used for such purposes;~~

20 ~~(2) Board means the Board of Emergency Medical Services;~~

21 ~~(3) Department means the Department of Health and Human~~  
22 ~~Services Regulation and Licensure;~~

23 ~~(4) Emergency medical service means the organization~~  
24 ~~responding to a perceived individual need for immediate medical~~  
25 ~~care in order to prevent loss of life or aggravation of~~

1 ~~physiological or psychological illness or injury;~~

2 ~~(5) Out-of-hospital emergency care provider includes~~  
3 ~~all certification classifications of emergency care providers~~  
4 ~~established pursuant to the act;~~

5 ~~(6) Patient means an individual who either identifies~~  
6 ~~himself or herself as being in need of medical attention or upon~~  
7 ~~assessment by an out-of-hospital emergency care provider has an~~  
8 ~~injury or illness requiring treatment;~~

9 ~~(7) Person means an individual, firm, partnership,~~  
10 ~~limited liability company, corporation, company, association, or~~  
11 ~~joint-stock company or association or group of individuals acting~~  
12 ~~together for a common purpose and includes the State of Nebraska~~  
13 ~~and any agency or political subdivision of the state;~~

14 ~~(8) Physician medical director means a qualified~~  
15 ~~physician who is responsible for the medical supervision of~~  
16 ~~out-of-hospital emergency care providers and verification of skill~~  
17 ~~proficiency of out-of-hospital emergency care providers pursuant~~  
18 ~~to section 71-5178;~~

19 ~~(9) Protocol means a set of written policies,~~  
20 ~~procedures, and directions from a physician medical director to~~  
21 ~~an out-of-hospital emergency care provider concerning the medical~~  
22 ~~procedures to be performed in specific situations;~~

23 ~~(10) Qualified physician means an individual who is~~  
24 ~~licensed to practice medicine and surgery pursuant to sections~~  
25 ~~71-1,102 to 71-1,107.14 or osteopathic medicine and surgery~~

1 pursuant to sections 71-1,137 to 71-1,141 and meets any other  
2 requirements established by rule and regulation;

3           (11) Qualified physician surrogate means a qualified,  
4 trained medical person designated by a qualified physician in  
5 writing to act as an agent for the physician in directing  
6 the actions or recertification of out-of-hospital emergency care  
7 providers; and

8           (12) Standing order means a direct order from the  
9 physician medical director to perform certain tasks for a patient  
10 under a specific set of circumstances.

11           Sec. 489. Ambulance means any privately or publicly owned  
12 motor vehicle or aircraft that is especially designed, constructed  
13 or modified, and equipped and is intended to be used and is  
14 maintained or operated for the overland or air transportation of  
15 patients upon the streets, roads, highways, airspace, or public  
16 ways in this state, including funeral coaches or hearses, or any  
17 other motor vehicles or aircraft used for such purposes.

18           Sec. 490. Board means the Board of Emergency Medical  
19 Services.

20           Sec. 491. Emergency medical service means the  
21 organization responding to a perceived individual need for  
22 immediate medical care in order to prevent loss of life or  
23 aggravation of physiological or psychological illness or injury.

24           Sec. 492. Out-of-hospital emergency care provider  
25 includes all licensure classifications of emergency care providers

1 established pursuant to the Emergency Medical Services Practice  
2 Act.

3           Sec. 493. Patient means an individual who either  
4 identifies himself or herself as being in need of medical attention  
5 or upon assessment by an out-of-hospital emergency care provider  
6 has an injury or illness requiring treatment.

7           Sec. 494. Physician medical director means a qualified  
8 physician who is responsible for the medical supervision of  
9 out-of-hospital emergency care providers and verification of skill  
10 proficiency of out-of-hospital emergency care providers pursuant to  
11 section 501 of this act.

12           Sec. 495. Protocol means a set of written policies,  
13 procedures, and directions from a physician medical director to  
14 an out-of-hospital emergency care provider concerning the medical  
15 procedures to be performed in specific situations.

16           Sec. 496. Qualified physician means an individual who is  
17 licensed to practice medicine and surgery or osteopathic medicine  
18 and surgery pursuant to the Uniform Credentialing Act and meets any  
19 other requirements established by rule and regulation.

20           Sec. 497. Qualified physician surrogate means a  
21 qualified, trained medical person designated by a qualified  
22 physician in writing to act as an agent for the physician in  
23 directing the actions or renewal of out-of-hospital emergency care  
24 providers.

25           Sec. 498. Standing order means a direct order from the



1 physician medical director to perform certain tasks for a patient  
2 under a specific set of circumstances.

3           Sec. 499. Section 71-5176, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           ~~71-5176~~ (1) ~~The Board of Emergency Medical Services is~~  
6 ~~established.~~ The board shall have seventeen members appointed by  
7 the Governor with the approval of a majority of the Legislature.  
8 The appointees may begin to serve immediately following appointment  
9 and prior to approval by the Legislature.

10           (2) (a) Seven members of the Board of Emergency Medical  
11 Services shall be active out-of-hospital emergency care providers  
12 at the time of and for the duration of their appointment, and each  
13 shall have at least five years of experience in his or her level  
14 of ~~certification~~ licensure at the time of his or her appointment  
15 or reappointment. Two of the seven members who are out-of-hospital  
16 emergency care providers shall be first responders, two shall  
17 be emergency medical technicians, one shall be an emergency  
18 medical technician-intermediate, and two shall be emergency medical  
19 technicians-paramedic.

20           (b) Three of the members shall be qualified physicians  
21 actively involved in emergency medical care. At least one of the  
22 physician members shall be a ~~board-certified surgeon,~~ and at least  
23 ~~one of the physician members shall be a board-certified emergency~~  
24 ~~physician.~~

25           (c) Five members shall be appointed to include one

1 member who is a representative of an approved training agency,  
2 one member who is a physician assistant with at least five years  
3 of experience and active in out-of-hospital emergency medical care  
4 education, one member who is a registered nurse with at least  
5 five years of experience and active in out-of-hospital emergency  
6 medical care education, and two members who are consumers who have  
7 been residents of the State of Nebraska for five years with public  
8 members who meet the requirements of section 65 of this act and  
9 who have an expressed interest in the provision of out-of-hospital  
10 emergency medical care.

11 (d) The remaining two members shall have any of the  
12 qualifications listed in subdivision (a), (b), or (c) of this  
13 subsection.

14 (e) In addition to any other criteria for appointment,  
15 among the members of the board there shall be at least one member  
16 who is a volunteer emergency medical care provider, at least one  
17 member who is a paid emergency medical care provider, at least  
18 one member who is a firefighter, at least one member who is a  
19 law enforcement officer, and at least one member who is active  
20 in the Critical Incident Stress Management Program. If a person  
21 appointed to the board is qualified to serve as a member in more  
22 than one capacity, all qualifications of such person shall be taken  
23 into consideration to determine whether or not the diversity in  
24 qualifications required in this subsection has been met.

25 (f) At least five members of the board shall be appointed

1 from each congressional district, and at least one of such members  
2 shall be a - No more than one physician member shall reside in any  
3 single congressional district. described in subdivision (b) of this  
4 subsection.

5 (3) The Governor shall make the initial appointments to  
6 the board within ninety days after September 13, 1997. Five of  
7 the initial members shall be appointed for terms of one year as  
8 determined by the Governor. Six of the initial members shall be  
9 appointed for terms of two years as determined by the Governor. Six  
10 of the initial members shall be appointed for terms of three years  
11 as determined by the Governor. After the initial appointments, all  
12 members shall serve three-year terms. Members shall serve five-year  
13 terms beginning on December 1 and may serve for any number of such  
14 terms. The terms of the members of the board appointed prior to the  
15 operative date of this section shall be extended by two years and  
16 until December 1 of such year. Each member shall hold office until  
17 the expiration of his or her term. Any vacancy in membership, other  
18 than by expiration of a term, shall be filled within ninety days by  
19 the Governor by appointment as provided in subsection (2) of this  
20 section.

21 ~~(4) Members of the board shall be reimbursed for their~~  
22 ~~actual and necessary expenses as provided in sections 81-1174 to~~  
23 ~~81-1177.~~

24 (4) ~~(5)~~ The board shall meet within ninety days after the  
25 appointment of the initial members and shall meet at least once

1 ~~each year thereafter.~~ Special meetings of the board may be called  
2 by the department or upon the written request of any six members  
3 of the board explaining the reason for such meeting. The place of  
4 the meetings shall be set by the department. ~~At the first meeting~~  
5 ~~of the board, such officers as the board deems necessary shall~~  
6 ~~be elected.~~ A majority of the members shall constitute a quorum  
7 ~~for the transaction of business.~~ Every act of the majority of the  
8 ~~members of the board present at a meeting of the board shall be~~  
9 ~~deemed to be the act of the board.~~ The board shall comply with the  
10 ~~Open Meetings Act.~~

11 ~~(6)~~ The department shall adopt and promulgate rules and  
12 ~~regulations which establish definitions of conflicts of interest~~  
13 ~~for members of the board and which establish procedures for~~  
14 ~~resolution of conflicts of interest.~~

15 ~~(7)~~ (5) The Governor upon recommendation of the  
16 department shall have power to remove from office at any time any  
17 member of the board for physical or mental incapacity to carry out  
18 the duties of a board member, for continued neglect of duty, for  
19 incompetency, for acting beyond the individual member's scope of  
20 authority, for malfeasance in office, for any cause for which a  
21 ~~professional license or certificate~~ credential may be suspended or  
22 ~~revoked pursuant to the Uniform Licensing Law,~~ Credentialing Act,  
23 ~~or for a lack of license or certificate required by the Emergency~~  
24 ~~Medical Services Practice Act.~~

25 ~~(8)~~ (6) Except as provided in subsection ~~(7)~~ (5) of

1 this section and notwithstanding subsection (2) of this section,  
2 a member of the board who changes his or her ~~certification~~  
3 licensure classification after appointment when such ~~certification~~  
4 licensure classification was a qualification for appointment shall  
5 be permitted to continue to serve as a member of the board until  
6 the expiration of his or her term.

7 Sec. 500. Section 71-5177, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-5177~~ In addition to any other responsibilities  
10 prescribed by the Emergency Medical Services Practice Act, the  
11 board shall:

12 (1) Promote the dissemination of public information and  
13 education programs to inform the public about out-of-hospital  
14 emergency medical care and other out-of-hospital medical  
15 information, including appropriate methods of medical self-help,  
16 first aid, and the availability of out-of-hospital emergency  
17 medical services training programs in the state;

18 (2) Provide for the collection of information for  
19 evaluation of the availability and quality of out-of-hospital  
20 emergency medical care, evaluate the availability and quality  
21 of out-of-hospital emergency medical care, and serve as a focal  
22 point for discussion of the provision of out-of-hospital emergency  
23 medical care;

24 (3) Review and comment on all state agency proposals  
25 and applications that seek funding for out-of-hospital emergency

1 medical care;

2 (4) Establish model procedures for patient management in  
3 out-of-hospital medical emergencies that do not limit the authority  
4 of law enforcement and fire protection personnel to manage the  
5 scene during an out-of-hospital medical emergency;

6 (5) Not less than once each five years, undertake a  
7 review and evaluation of the act and its implementation together  
8 with a review of the out-of-hospital emergency medical care needs  
9 of the citizens of the State of Nebraska and report to the  
10 Legislature any recommendations which it may have; and

11 (6) Identify communication needs of emergency  
12 medical services and make recommendations for development  
13 of a communications plan for a communications network for  
14 out-of-hospital emergency care providers and emergency medical  
15 services.

16 Sec. 501. Section 71-5178, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 ~~71-5178~~ The department, with the approval of the board,  
19 shall adopt and promulgate rules and regulations necessary to:

20 ~~(1) Implement the Emergency Medical Services Act;~~

21 ~~(2) (1) Create the following certification licensure~~  
22 classifications of out-of-hospital emergency care providers:

23 (a) First responder; (b) emergency medical technician; (c)  
24 emergency medical technician-intermediate; and (d) emergency  
25 medical technician-paramedic. The rules and regulations

1 creating the classifications shall include the practices and  
2 procedures authorized for each classification, training and  
3 testing requirements, ~~recertification~~ renewal and reinstatement  
4 requirements, and other criteria and qualifications for each  
5 classification determined to be necessary for protection of public  
6 health and safety;

7           ~~(3) Provide for curricula which will allow~~  
8 ~~out-of-hospital emergency care providers and users of automated~~  
9 ~~external defibrillators as defined in section 71-51,102 to be~~  
10 ~~trained for the delivery of practices and procedures in units of~~  
11 ~~limited subject matter which will encourage continued development~~  
12 ~~of abilities and use of such abilities through additional~~  
13 ~~authorized practices and procedures;~~

14           ~~(4) Establish procedures and requirements for~~  
15 ~~applications for examination, certification, or recertification in~~  
16 ~~any of the certification classifications created pursuant to the~~  
17 ~~Emergency Medical Services Act;~~

18           ~~(5) Provide~~ (2) Set standards for the licensure of  
19 basic life support services and advanced life support services.  
20 The rules and regulations providing for licensure shall include  
21 standards and requirements for: Vehicles, equipment, maintenance,  
22 sanitation, inspections, personnel, training, medical direction,  
23 records maintenance, practices and procedures to be provided by  
24 employees or members of each classification of service, and other  
25 criteria for licensure established by the department with the

1 ~~approval~~ of the board;

2           ~~(6)~~ (3) Authorize emergency medical services to  
3 provide differing practices and procedures depending upon the  
4 qualifications of out-of-hospital emergency care providers  
5 available at the time of service delivery. No emergency medical  
6 service shall be licensed to provide practices or procedures  
7 without the use of personnel ~~certified~~ licensed to provide the  
8 practices or procedures;

9           ~~(7)~~ Authorize out-of-hospital emergency care providers to  
10 perform any practice or procedure which they are authorized to  
11 perform with an emergency medical service other than the service  
12 with which they are affiliated when requested by the other service  
13 and when the patient for whom they are to render services is in  
14 danger of loss of life;

15           ~~(8)~~ (4) Provide for the approval, inspection, review,  
16 and termination of approval of training agencies and establish  
17 minimum standards for services provided by training agencies; ~~-. All~~  
18 training for certification shall be provided through an approved or  
19 accredited training agency;

20           ~~(9)~~ (5) Provide for the minimum qualifications of a  
21 physician medical director in addition to the licensure required by  
22 subdivision ~~(10)~~ of section 71-5175; section 496 of this act;

23           ~~(10)~~ (6) Provide for the use of physician medical  
24 directors, qualified physician surrogates, model protocols,  
25 standing orders, operating procedures, and guidelines which



1 may be necessary or appropriate to carry out the purposes of  
2 the ~~act.~~ Emergency Medical Services Practice Act. The model  
3 protocols, standing orders, operating procedures, and guidelines  
4 may be modified by the physician medical director for use by  
5 any out-of-hospital emergency care provider or emergency medical  
6 service before or after adoption;

7 ~~(11)~~ (7) Establish criteria for approval of organizations  
8 issuing cardiopulmonary resuscitation certification which shall  
9 include criteria for instructors, establishment of certification  
10 periods and minimum curricula, and other aspects of training and  
11 certification;

12 ~~(12)~~ (8) Establish ~~recertification and renewal and~~  
13 reinstatement requirements for out-of-hospital emergency care  
14 providers and emergency medical services and ~~adopt and promulgate~~  
15 ~~rules and regulations to~~ establish continuing competency  
16 requirements ~~as approved by the board.~~ Continuing education  
17 is sufficient to meet continuing competency requirements. The  
18 requirements may also include, but not be limited to, one or more  
19 of the continuing competency activities listed in section ~~71-161.09~~  
20 45 of this act which a ~~certified~~ licensed person may select  
21 as an alternative to continuing education. The ~~recertification~~  
22 reinstatement requirements for out-of-hospital emergency care  
23 providers shall allow ~~recertification~~ reinstatement at the same  
24 or any lower level of ~~certification~~ licensure for which the  
25 out-of-hospital emergency care provider is determined to be

1 qualified;

2 ~~(13)~~ (9) Establish criteria for deployment and use of  
3 automated external defibrillators as necessary for the protection  
4 of the public health and safety;

5 ~~(14)~~ (10) Create ~~certification, recertification, and~~  
6 ~~renewal~~ licensure, renewal, and reinstatement requirements  
7 for emergency medical service instructors. The rules and  
8 regulations shall include the practices and procedures for  
9 ~~certification, recertification, and renewal,~~ licensure, renewal,  
10 and reinstatement; and

11 ~~(15)~~ (11) Establish criteria for emergency  
12 medical technicians-intermediate and emergency medical  
13 technicians-paramedic performing activities within their scope of  
14 practice at a hospital or health clinic under subsection (3) of  
15 section ~~71-5184.~~ 508 of this act. Such criteria shall include,  
16 but not be limited to: (a) Requirements for the orientation of  
17 registered nurses, physician assistants, and physicians involved  
18 in the supervision of such personnel; (b) supervisory and training  
19 requirements for the physician medical director or other person in  
20 charge of the medical staff at such hospital or health clinic; and  
21 (c) a requirement that such activities shall only be performed  
22 at the discretion of, and with the approval of, the governing  
23 authority of such hospital or health clinic. For purposes of this  
24 subdivision, health clinic has the definition found in section  
25 71-416 and hospital has the definition found in section 71-419.

1           All certificates and licenses issued under the act shall  
2 ~~expire at midnight on December 31 the third year after issuance.~~

3           Sec. 502. Section 71-5179, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           ~~71-5179~~ (1) The Legislature adopts all parts of  
6 the United States Department of Transportation curricula,  
7 including appendices, and skills as the training requirements and  
8 permitted practices and procedures for the ~~certification~~ licensure  
9 classifications listed in subdivision ~~(2)~~ (1) of section ~~71-5178~~  
10 501 of this act until modified by rule and regulation.

11           (2) The department and the board shall consider the  
12 following factors, in addition to other factors required or  
13 permitted by the Emergency Medical Services Practice Act, when  
14 adopting rules and regulations for a ~~certification~~ licensure  
15 classification:

16           (a) Whether the initial training required for  
17 ~~certification~~ licensure in the classification is sufficient to  
18 enable the out-of-hospital emergency care provider to perform the  
19 practices and procedures authorized for the classification in a  
20 manner which is beneficial to the patient and protects public  
21 health and safety;

22           (b) Whether the practices and procedures to be authorized  
23 are necessary to the efficient and effective delivery of  
24 out-of-hospital emergency medical care;

25           (c) Whether morbidity can be reduced or recovery enhanced

1 by the use of the practices and procedures to be authorized for the  
2 classification; and

3 (d) Whether continuing competency requirements  
4 are sufficient to maintain the skills authorized for the  
5 classification.

6 Sec. 503. The department, with the recommendation of the  
7 board, shall adopt and promulgate rules and regulations necessary  
8 to:

9 (1) Administer the Emergency Medical Services Practice  
10 Act;

11 (2) Provide for curricula which will allow  
12 out-of-hospital emergency care providers and users of automated  
13 external defibrillators as defined in section 71-51,102 to be  
14 trained for the delivery of practices and procedures in units of  
15 limited subject matter which will encourage continued development  
16 of abilities and use of such abilities through additional  
17 authorized practices and procedures;

18 (3) Establish procedures and requirements for  
19 applications for licensure, renewal, and reinstatement in  
20 any of the licensure classifications created pursuant to the  
21 Emergency Medical Services Practice Act; and

22 (4) Provide for the inspection, review, and termination  
23 of approval of training agencies. All training for licensure shall  
24 be provided through an approved training agency.

25 Sec. 504. Section 71-5191, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-5191~~ The following are exempt from the licensing  
3 ~~and certification~~ requirements of the Emergency Medical Services  
4 Practice Act:

5 (1) The occasional use of a vehicle or aircraft not  
6 designated as an ambulance and not ordinarily used in transporting  
7 patients or operating emergency care, rescue, or resuscitation  
8 services;

9 (2) Vehicles or aircraft rendering services as an  
10 ambulance in case of a major catastrophe or emergency when licensed  
11 ambulances based in the localities of the catastrophe or emergency  
12 are incapable of rendering the services required;

13 (3) Ambulances from another state which are operated from  
14 a location or headquarters outside of this state in order to  
15 transport patients across state lines, but no such ambulance shall  
16 be used to pick up patients within this state for transportation to  
17 locations within this state except in case of an emergency;

18 (4) Ambulances or emergency vehicles owned and operated  
19 by an agency of the United States Government and the personnel of  
20 such agency;

21 (5) Except for the provisions of section ~~71-5194~~, 516  
22 of this act, physicians, physician assistants, registered nurses,  
23 licensed practical nurses, or advanced practice registered nurses,  
24 who hold current Nebraska licenses and are exclusively engaged in  
25 the practice of their respective professions; ~~and~~

1           (6) Persons authorized to perform out-of-hospital  
2 emergency care in other states when incidentally working in  
3 Nebraska in response to an emergency situation; and -

4           (7) Students under the supervision of a licensed  
5 out-of-hospital emergency care provider performing emergency  
6 medical services that are an integral part of the training provided  
7 by an approved training agency.

8           Sec. 505. (1) To be eligible for a license under the  
9 Emergency Medical Services Practice Act, an individual shall have  
10 attained the age of eighteen years and met the requirements  
11 established in accordance with subdivision (1) of section 501 of  
12 this act.

13           (2) All licenses issued under the act shall expire the  
14 second year after issuance.

15           (3) An individual holding a certificate under the  
16 Emergency Medical Services Act on December 1, 2008, shall be deemed  
17 to be holding a license under the Uniform Credentialing Act and  
18 the Emergency Medical Services Practice Act on such date. The  
19 certificate holder may continue to practice under such certificate  
20 as a license in accordance with the Uniform Credentialing Act until  
21 the certificate would have expired under its terms.

22           Sec. 506. Section 71-5181.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           ~~71-5181.01~~ The department shall establish and collect  
25 fees for credentialing activities under the Emergency Medical

1 Services Practice Act as provided in ~~section 71-162.~~ sections 51 to  
2 57 of this act.

3 Sec. 507. Section 71-5183, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-5183~~ Each licensed emergency medical service shall  
6 have a physician medical director. ~~by July 1, 1998.~~

7 Sec. 508. Section 71-5184, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-5184~~ (1) An out-of-hospital emergency care provider  
10 other than a first responder as classified under section ~~71-5178~~  
11 501 of this act may not assume the duties incident to the title or  
12 practice the skills of an out-of-hospital emergency care provider  
13 unless he or she is employed by or serving as a volunteer member of  
14 an emergency medical service licensed by the department.

15 (2) An out-of-hospital emergency care provider may only  
16 practice the skills he or she is authorized to employ and which are  
17 covered by the ~~certificate~~ license issued to such provider pursuant  
18 to ~~section 71-5181.~~ the Emergency Medical Services Practice Act.

19 (3) An emergency medical technician-intermediate or an  
20 emergency medical technician-paramedic may volunteer or be employed  
21 at a hospital as defined in section 71-419 or a health clinic  
22 as defined in section 71-416 to perform activities within his  
23 or her scope of practice within such hospital or health clinic  
24 under the supervision of a registered nurse, a physician assistant,  
25 or a physician. Such activities shall be performed in a manner

1 established in rules and regulations adopted and promulgated by the  
2 department, ~~with approval~~ the recommendation of the board.

3 Sec. 509. Section 71-5185, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-5185~~ (1) No patient data received or recorded by an  
6 emergency medical service or an out-of-hospital emergency care  
7 provider shall be divulged, made public, or released by an  
8 emergency medical service or an out-of-hospital emergency care  
9 provider, except that patient data may be released to the receiving  
10 health care facility, to the department for public health purposes,  
11 upon the written authorization of the patient who is the subject of  
12 the record, or as otherwise permitted by law. For purposes of this  
13 section, patient data means any data received or recorded as part  
14 of the records maintenance requirements of the Emergency Medical  
15 Services Practice Act.

16 (2) Patient data received by the department shall  
17 be confidential with release only (a) in aggregate data  
18 reports created by the department on a periodic basis or  
19 at the request of an individual or (b) as case-specific  
20 data to approved researchers for specific research projects.  
21 Approved researchers shall maintain the confidentiality of the  
22 data, and researchers shall be approved in the same manner  
23 as described in section 81-666. Aggregate reports shall be  
24 public documents. Emergency-medical-service-specific data and  
25 out-of-hospital-emergency-care-provider-specific data shall be



1 released only upon the written authorization of the service or the  
2 provider who is the subject of the record.

3 (3) No civil or criminal liability of any kind or  
4 character for damages or other relief or penalty shall arise or  
5 be enforced against any person or organization by reason of having  
6 provided patient data pursuant to this section.

7 Sec. 510. Section 71-5186, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-5186~~ No ambulance shall transport any patient upon  
10 any street, road, highway, airspace, or public way in the State  
11 of Nebraska unless such ambulance, when so transporting patients,  
12 is occupied by at least one ~~certified~~ licensed out-of-hospital  
13 emergency care provider. Such requirement shall be met if any of  
14 the individuals providing the service is a licensed physician,  
15 registered nurse, licensed physician assistant, or licensed  
16 practical nurse functioning within the scope of practice of his or  
17 her license.

18 Sec. 511. Section 71-5187, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~71-5187~~ The driver of a licensed motor vehicle ambulance  
21 who holds a valid driver's license issued by the state of his or  
22 her residence may exercise the privileges set forth in Nebraska  
23 statutes relating to emergency vehicles when responding to an  
24 emergency call or while transporting a patient.

25 Sec. 512. Section 71-5188, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-5188~~ The department, with the approval of the board,  
3 may, whenever it deems appropriate, waive any rule, regulation, or  
4 standard relating to the licensure of emergency medical services or  
5 ~~certification of~~ out-of-hospital emergency care providers when the  
6 lack of a licensed emergency medical service in a municipality or  
7 other area will create an undue hardship in the municipality or  
8 other area in meeting the emergency medical service needs of the  
9 people thereof.

10           Sec. 513. Section 71-5189, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           ~~71-5189~~ The department may issue a certificate for  
13 ~~out-of-hospital emergency care providers without examination to~~  
14 ~~any person who holds a current certificate or license as an~~  
15 ~~out-of-hospital emergency care provider, or its equivalent, from~~  
16 ~~another jurisdiction if the department, with the approval of the~~  
17 ~~board, finds that the standards for certification or licensure in~~  
18 ~~such other jurisdiction are at least the substantial equivalent of~~  
19 ~~those prevailing in this state.~~ The department, with the approval  
20 recommendation of the board, may issue a certificate license to any  
21 individual who has a current certificate from the National Registry  
22 of Emergency Medical Technicians. The level of such ~~certification~~  
23 licensure shall be determined by the department with the approval  
24 of the board.

25           Sec. 514. Section 71-5190, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-5190~~ A license issued under the Emergency Medical  
3 Services Practice Act shall not be sold, transferred, or assigned  
4 by the holder. Any change of ownership of an emergency medical  
5 service requires a new application and a new license.

6           Sec. 515. Section 71-5193, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~71-5193~~ The Emergency Medical Services Practice Act or  
9 the rules or regulations shall not be construed to authorize or  
10 require giving any medical treatment to a person who objects to  
11 such treatment on religious or other grounds or to authorize the  
12 transportation of such person to a medical facility.

13           Sec. 516. Section 71-5194, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           ~~71-5194~~ (1) No out-of-hospital emergency care provider,  
16 physician assistant, registered nurse, or licensed practical nurse  
17 who provides public emergency care shall be liable in any civil  
18 action to respond in damages as a result of his or her acts  
19 of commission or omission arising out of and in the course of  
20 his or her rendering in good faith any such care. Nothing in  
21 this subsection shall be deemed to grant any such immunity for  
22 liability arising out of the operation of any motor vehicle,  
23 aircraft, or boat or while such person was impaired by alcoholic  
24 liquor or any controlled substance enumerated in section 28-405 in  
25 connection with such care, nor shall immunity apply to any person

1 causing damage or injury by his or her willful, wanton, or grossly  
2 negligent act of commission or omission.

3 (2) No qualified physician or qualified physician  
4 surrogate who gives orders, either orally or by communication  
5 equipment, to any out-of-hospital emergency care provider at  
6 the scene of an emergency, no out-of-hospital emergency care  
7 provider following such orders within the limits of his or her  
8 ~~certification,~~ licensure and no out-of-hospital emergency care  
9 provider trainee in an approved training program following such  
10 orders, shall be liable civilly or criminally by reason of having  
11 issued or followed such orders but shall be subject to the rules  
12 of law applicable to negligence.

13 (3) No physician medical director shall incur any  
14 liability by reason of his or her use of any unmodified protocol,  
15 standing order, operating procedure, or guideline provided by the  
16 board pursuant to subdivision ~~(10)~~ (6) of section ~~71-5178.~~ 501 of  
17 this act.

18 Sec. 517. Section 71-5195, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~71-5195~~ No out-of-hospital emergency care provider shall  
21 be subject to civil liability based solely upon failure to obtain  
22 consent in rendering emergency medical, surgical, hospital, or  
23 health services to any individual regardless of age when the  
24 patient is unable to give his or her consent for any reason  
25 and there is no other person reasonably available who is legally

1 authorized to consent to the providing of such care.

2           Sec. 518. Section 71-5196, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~71-5196~~ No act of commission or omission of any  
5 out-of-hospital emergency care provider while rendering emergency  
6 medical care within the limits of his or her ~~certification~~  
7 licensure or status as a trainee to a person who is deemed by  
8 the provider to be in immediate danger of injury or loss of life  
9 shall impose any liability on any other person, and this section  
10 shall not relieve the out-of-hospital emergency care provider from  
11 personal liability, if any.

12           Sec. 519. Section 71-5197, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~71-5197~~ The department may accept from any person, in  
15 the name of and for the state, services, equipment, supplies,  
16 materials, or funds by way of bequest, gift, or grant for the  
17 purposes of promoting emergency medical care. Any such funds  
18 received shall be remitted to ~~the state treasury and shall be~~  
19 ~~credited by~~ the State Treasurer for credit to the Department of  
20 Health and Human Services Regulation and Licensure Cash Fund.

21           Sec. 520. Section 71-5198, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           ~~71-5198~~ The provisions of the Emergency Medical Services  
24 Practice Act shall not be construed to supersede, limit, or  
25 otherwise affect the state emergency management laws or any

1 interstate civil defense compact participated in by the State of  
2 Nebraska dealing with the licenses for professional, mechanical, or  
3 other skills of persons performing emergency management functions.

4 Sec. 521. Section 71-5199, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 ~~71-5199~~ It shall be unlawful for any person who has not  
7 been ~~certified~~ licensed pursuant to the Emergency Medical Services  
8 Practice Act to hold himself or herself out as an out-of-hospital  
9 emergency care provider, to use any other term to indicate or imply  
10 that he or she is an out-of-hospital emergency care provider, or to  
11 act as such a provider without a ~~certificate~~ license therefor. It  
12 shall be unlawful for any person to operate a training agency for  
13 the initial training or ~~recertification~~ renewal or reinstatement  
14 of licensure of out-of-hospital emergency care providers unless  
15 the training agency is approved pursuant to rules and regulations  
16 of the board. It shall be unlawful for any person to operate  
17 an emergency medical service unless such service is licensed. ~~Any~~  
18 ~~person who violates any provision of this section shall be guilty~~  
19 ~~of a Class I misdemeanor.~~

20 Sec. 522. Sections 522 to 536 of this act shall be known  
21 and may be cited as the Environmental Health Specialists Practice  
22 Act.

23 Sec. 523. Section 71-3702, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~71-3702~~ For purposes of sections ~~71-3702 to 71-3715,~~ the

1 Environmental Health Specialists Practice Act and elsewhere in the  
2 Uniform Credentialing Act, unless the context otherwise requires,  
3 the definitions found in sections 524 to 527 of this act apply. +

4           ~~(1) Board shall mean the Board of Registration for~~  
5 ~~Environmental Health Specialists;~~

6           ~~(2) Environmental health specialist shall mean a person~~  
7 ~~who by education and experience in the physical, biological,~~  
8 ~~and sanitary sciences is qualified to carry out educational,~~  
9 ~~investigational, and technical duties in the field of environmental~~  
10 ~~sanitation;~~

11           ~~(3) Registered environmental health specialist shall~~  
12 ~~mean a person who has the educational requirements and has had~~  
13 ~~experience in the field of environmental sanitation required by~~  
14 ~~section 71-3703 and is registered in accordance with sections~~  
15 ~~71-3702 to 71-3715;~~

16           ~~(4) Trainee shall mean a person who is qualified by~~  
17 ~~education but does not have at least one full year of experience~~  
18 ~~in the field of environmental sanitation and is registered in~~  
19 ~~accordance with sections 71-3702 to 71-3715;~~

20           ~~(5) Certificate of registration shall mean a document~~  
21 ~~issued as evidence of registration and qualification to~~  
22 ~~practice as an environmental health specialist or trainee under~~  
23 ~~sections 71-3702 to 71-3715, bearing the designation Registered~~  
24 ~~Environmental Health Specialist or Trainee, and showing the name of~~  
25 ~~the person, date of issue, serial number, seal, and signatures of~~

1 ~~the members of the board authorized to grant such certificates, and~~

2 ~~(6) Department shall mean the Department of Health and~~  
3 ~~Human Services Regulation and Licensure.~~

4 Sec. 524. Board means the Board of Registered  
5 Environmental Health Specialists.

6 Sec. 525. Environmental health specialist means a person  
7 who by education and experience in the physical, biological,  
8 and sanitary sciences is qualified to carry out educational,  
9 investigational, and technical duties in the field of environmental  
10 sanitation.

11 Sec. 526. Provisional environmental health specialist  
12 means a person who is qualified by education but does not have at  
13 least two full years of experience in the field of environmental  
14 sanitation and is certified in accordance with the Environmental  
15 Health Specialists Practice Act.

16 Sec. 527. Registered environmental health specialist  
17 means a person who has the educational requirements and has  
18 had experience in the field of environmental sanitation required by  
19 section 529 of this act and is certified in accordance with the  
20 Environmental Health Specialists Practice Act.

21 Sec. 528. Section 71-3706, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-3706 The Board of Registration for Environmental  
24 Health Specialists board shall consist of six members. One member  
25 shall be a public member who meets the requirements of section 65



1 ~~of this act.~~ appointed by the State Board of Health. One member  
2 shall be a layperson who is at least the age of majority, who has  
3 been a resident of the state for at least five years immediately  
4 preceding appointment, and who is a representative of consumer  
5 viewpoints. Each of the other members shall have been engaged  
6 in environmental health for at least ten years, shall have had  
7 responsible charge of work for at least five years at the time of  
8 his or her appointment, and shall be a registered environmental  
9 health specialist. At the expiration of the three-year terms of the  
10 members serving on December 1, 2008, successors shall be appointed  
11 for five-year terms. Each member of the Board of Registration  
12 for Environmental Health Specialists shall receive as compensation  
13 not more than twenty-five dollars per day for each day actually  
14 spent in traveling to and from and while attending sessions of the  
15 board and its committees, and each member shall also receive the  
16 necessary expenses incident to the performance of his or her duties  
17 as provided by sections 81-1174 to 81-1177 and subject to section  
18 71-3708.01.

19           The Department of Health and Human Services Regulation  
20 and Licensure shall adopt and promulgate rules and regulations  
21 which establish definitions of conflicts of interest for members  
22 of the board and which establish procedures in the case such a  
23 conflict arises.

24           Sec. 529. Section 71-3703, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~71-3703~~ Any person desiring to be registered as an  
2 environmental health specialist may make application to the board  
3 on a form prescribed by the board. The application shall include  
4 the applicant's social security number. The board shall accept  
5 such application when submitted if accompanied by the required  
6 fees established and collected as provided in section 71-162. A  
7 person shall be eligible for registration under sections 71-3702  
8 to 71-3715 certification as an environmental health specialist if  
9 he or she has graduated with a baccalaureate or higher degree from  
10 an accredited college or university, has satisfactorily completed  
11 at least forty-five quarter hours or thirty semester hours of  
12 academic work in the basic natural sciences, has been employed  
13 full time as an environmental health specialist for a period not  
14 less than ~~one year,~~ two years, and has passed an examination ~~given~~  
15 ~~and conducted~~ approved by the board, under section 71-3705, except  
16 that a person holding a degree higher than a baccalaureate degree  
17 who has satisfactorily completed at least forty-five quarter hours  
18 or thirty semester hours of academic work in the basic natural  
19 sciences may qualify when employed as an environmental health  
20 specialist for a period of not less than ~~six months,~~ one year.

21           Sec. 530. Section 71-3704, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           ~~71-3704~~ Any person meeting the educational qualifications  
24 of section ~~71-3703~~ 529 of this act but who does not meet the  
25 experience requirements of such section may make application ~~to~~

1 the board on a form prescribed by the board for registration for  
 2 certification as a trainee. The board shall accept such application  
 3 when submitted if accompanied by the required fees. provisional  
 4 environmental health specialist.

5 Sec. 531. Section 71-3710, Reissue Revised Statutes of  
 6 Nebraska, is amended to read:

7 ~~71-3710 (1)~~ The board shall prescribe and provide an  
 8 application form for the use of all applicants. Applicants  
 9 for registration as environmental health specialists and for  
 10 registration as trainees shall submit fees for credentialing  
 11 activities as provided in section 71-162.

12 A registered environmental health specialist may renew  
 13 his or her registration by paying the renewal fee as provided  
 14 in section 71-162. Such fee shall be due and payable on or  
 15 before January 1 of each odd-numbered year for which a renewal  
 16 registration is issued. All registrations shall expire on December  
 17 31 of each even-numbered year. Procedures for renewal shall be in  
 18 accordance with section 71-110.

19 (1) Certification as a registered environmental health  
 20 specialist shall expire biennially. Certification as a provisional  
 21 environmental health specialist shall be valid for one year and may  
 22 be renewed for two additional one-year periods. In no case shall  
 23 registration certification for a trainee provisional environmental  
 24 health specialist exceed a two-year three-year period.

25 (2) Each registered environmental health specialist ~~ex~~

1 ~~trainee~~ in active practice in the state shall, ~~on or before~~  
2 ~~December 31~~ of each even-numbered year, complete continuing  
3 competency activities as ~~required~~ approved by the board and adopted  
4 and promulgated by the department in rules and regulations as  
5 a prerequisite for the registrant's next subsequent biennial  
6 ~~registration~~ renewal. Continuing education is sufficient to meet  
7 continuing competency requirements. The requirements may also  
8 include, but not be limited to, one or more of the continuing  
9 competency activities listed in section ~~71-161.09~~ 45 of this act  
10 which a ~~registrant~~ registered environmental health specialist may  
11 select as an alternative to continuing education.

12           Each registered environmental health specialist and  
13 trainee in active practice within the State of Nebraska shall, ~~on~~  
14 ~~or before~~ December 31 of each even-numbered year, certify to the  
15 department that he or she has complied with this subsection during  
16 the preceding two-year period. Any registrant who has not complied  
17 with such requirements shall not be issued a renewal registration  
18 except if he or she is exempt as provided in subsection (3) of  
19 this section. Procedures for nonrenewal of the registration of such  
20 registrants shall be identical to those for nonpayment of renewal  
21 fees as provided in sections 71-110 and 71-149. In cases other  
22 than nonrenewal, the procedures in sections 71-149 and 71-150 for  
23 refusal to renew shall apply.

24           ~~(3) A registrant shall be exempt from the requirements of~~  
25 ~~subsection (2) of this section if he or she:~~

1           ~~(a) Holds a Nebraska certificate of registration but is~~  
2 ~~not practicing as a registered environmental health specialist or~~  
3 ~~registered trainee in Nebraska;~~

4           ~~(b) Serves in the regular armed forces of the United~~  
5 ~~States during any part of the twenty-four months immediately~~  
6 ~~preceding the biennial certificate of registration renewal date;~~

7           ~~(c) Attends a college, university, or other institution~~  
8 ~~of higher education for a residence period of time in excess of~~  
9 ~~eight months during any part of the twenty-four months immediately~~  
10 ~~preceding the biennial certificate of registration renewal date;~~

11           ~~(d) Submits proof that he or she was suffering from a~~  
12 ~~serious or disabling illness or physical disability during the~~  
13 ~~twenty-four months immediately preceding the biennial certificate~~  
14 ~~of registration renewal date which prevented his or her completion~~  
15 ~~of continuing competency requirements established by the board;~~

16           ~~(e) Had first registered within the twenty-four months~~  
17 ~~immediately preceding the biennial certificate of registration~~  
18 ~~renewal date; or~~

19           ~~(f) Is a registered environmental health specialist in~~  
20 ~~good standing with the board who has completely retired from the~~  
21 ~~active practice of environmental sanitation.~~

22           Sec. 532. An applicant for certification as a registered  
23 environmental health specialist who has met the education and  
24 examination requirements in section 529 of this act, who passed the  
25 examination more than three years prior to the time of application

1 for certification, and who is not practicing at the time of  
2 application for certification shall present proof satisfactory  
3 to the department that he or she has within the three years  
4 immediately preceding the application for certification completed  
5 continuing competency requirements approved by the board pursuant  
6 to section 45 of this act.

7           Sec. 533. An applicant for certification as a registered  
8 environmental health specialist who has met the standards set by  
9 the board pursuant to section 26 of this act for a license based on  
10 licensure in another jurisdiction but is not practicing at the time  
11 of application for certification shall present proof satisfactory  
12 to the department that he or she has within the three years  
13 immediately preceding the application for certification completed  
14 continuing competency requirements approved by the board pursuant  
15 to section 45 of this act.

16           Sec. 534. The department shall establish and collect  
17 fees for credentialing under the Environmental Health Specialists  
18 Practice Act as provided in sections 51 to 57 of this act.

19           Sec. 535. Section 71-3713, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           ~~71-3713~~ Only a person ~~who has qualified as a registered~~  
22 ~~environmental health specialist~~ and who holds a valid current  
23 ~~registration~~ certificate for use in this state shall have the right  
24 and privilege of using the title Registered Environmental Health  
25 Specialist and to use the abbreviation R.E.H.S. after his or her

1 name.

2 Sec. 536. Section 71-3714, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 ~~71-3714~~ It shall be unlawful for any person to represent  
5 himself or herself as a registered environmental health specialist  
6 without being duly ~~registered~~ certified and the holder of a  
7 currently valid certificate ~~of registration~~ issued by the ~~board~~  
8 department. An individual holding a certificate of registration as  
9 a registered environmental health specialist on December 1, 2008,  
10 shall be deemed to be certified as a registered environmental  
11 health specialist on such date. An individual holding a certificate  
12 of registration as a trainee on December 1, 2008, shall be deemed  
13 to be certified as a provisional environmental health specialist on  
14 such date.

15 Sec. 537. Sections 537 to 564 of this act shall be known  
16 and may be cited as the Funeral Directing and Embalming Practice  
17 Act.

18 Sec. 538. Section 71-1301, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 ~~71-1301~~ For purposes of ~~sections 71-1301 to 71-1306 and~~  
21 ~~71-1326 to 71-1354,~~ the Funeral Directing and Embalming Practice  
22 Act and elsewhere in the Uniform Credentialing Act, unless the  
23 context otherwise requires, the definitions found in sections 539  
24 to 549 of this act apply. ÷

25 ~~(1) Accredited school of mortuary science means a school~~

1 of the same type as those rated Class A by the Conference of  
2 Funeral Service Examining Boards of the United States, Inc.,  
3 approved by the department upon recommendation of the board;

4       (2) Apprentice means a person registered with the  
5 department as an apprentice who is completing a twelve-month  
6 apprenticeship under the supervision of a licensed funeral director  
7 and embalmer practicing in the State of Nebraska. The licensed  
8 funeral director and embalmer is responsible for all funeral  
9 assists and embalmings completed by the apprentice;

10       (3) Board means the Board of Funeral Directing and  
11 Embalming;

12       (4) Branch establishment means a place of business  
13 situated at a specific street address or location which is a  
14 subsidiary of a licensed funeral establishment, which contains a  
15 casket display room, a viewing area, or an area for conducting  
16 funeral services, or all of them, and where any portion of the  
17 funeral service or arrangements for the disposition of a dead human  
18 body is conducted;

19       (5) Casket means a receptacle for a dead human body and  
20 does not include vaults, lawn crypts, mausoleums, or other outside  
21 receptacles for caskets;

22       (6) Crematory authority means the legal entity subject to  
23 licensure by the department to maintain and operate a crematory and  
24 perform cremation;

25       (7) Department means the Department of Health and Human



1 ~~Services Regulation and Licensure,~~

2           ~~(8) Embalming means the practice of preparing a dead~~  
3 ~~human body for burial or other final disposal by a licensed funeral~~  
4 ~~director and embalmer or an apprentice, requesting and obtaining~~  
5 ~~burial or removal permits, or assuming any of the other duties~~  
6 ~~incident to the practice of embalming. Any person who publicly~~  
7 ~~professes to be a funeral director and embalmer or an apprentice is~~  
8 ~~deemed to be practicing embalming. The performance of the following~~  
9 ~~acts is also deemed to be the practice of embalming: (a) The~~  
10 ~~disinfection and preservation of dead human beings, entire or in~~  
11 ~~part, and (b) the attempted disinfection and preservation thereof~~  
12 ~~by the use or application of chemical substances, fluids, or gases~~  
13 ~~ordinarily used, prepared, or intended for such purposes, either by~~  
14 ~~outward application of such chemical substances, fluids, or gases~~  
15 ~~on the body or by introducing them into the body, by vascular or~~  
16 ~~hypodermic injection, or by direct introduction into the organs or~~  
17 ~~cavities,~~

18           ~~(9) Funeral directing means (a) counseling families or~~  
19 ~~next of kin in regard to the conduct of a funeral service for a~~  
20 ~~dead human body for burial, disposition, or cremation or directing~~  
21 ~~or supervising burial, disposition, or cremation of dead human~~  
22 ~~bodies, (b) providing for or maintaining a funeral establishment,~~  
23 ~~or (c) the act of representing oneself as or using in connection~~  
24 ~~with one's name the title of funeral director, mortician, or any~~  
25 ~~other title implying that he or she is engaged in the business of~~

1 ~~funeral directing;~~

2           ~~(10) Funeral establishment means a place of business~~  
3 ~~situated at a specific street address or location devoted to the~~  
4 ~~care and preparation of dead human bodies for burial, disposition,~~  
5 ~~or cremation or to conducting or arranging funeral services for~~  
6 ~~dead human bodies;~~

7           ~~(11) Licensee means a person licensed by the department~~  
8 ~~as a funeral director and embalmer on or after January 1, 1994,~~  
9 ~~or a person licensed as a funeral director or embalmer prior to~~  
10 ~~January 1, 1994;~~

11           ~~(12) Licensure examination means a national standardized~~  
12 ~~examination, the state jurisprudence examination, and the vital~~  
13 ~~statistic forms examination; and~~

14           ~~(13) Supervision means the direct oversight or the easy~~  
15 ~~availability of the supervising funeral director and embalmer. The~~  
16 ~~first twenty-five funeral assists and embalmings shall be completed~~  
17 ~~under direct onsite supervision of the supervising funeral director~~  
18 ~~and embalmer.~~

19           Sec. 539. Accredited school of mortuary science means a  
20 school of the same type as those rated Class A by the Conference  
21 of Funeral Service Examining Boards of the United States, Inc.,  
22 approved by the board.

23           Sec. 540. Apprentice means a person registered with  
24 the department as an apprentice who is completing a twelve-month  
25 apprenticeship under the supervision of a licensed funeral director

1 and embalmer practicing in the State of Nebraska. The licensed  
2 funeral director and embalmer is responsible for all funeral  
3 assists and embalmings completed by the apprentice.

4           Sec. 541. Board means the Board of Funeral Directing and  
5 Embalming.

6           Sec. 542. Branch establishment means a place of business  
7 situated at a specific street address or location which is a  
8 subsidiary of a licensed funeral establishment, which contains a  
9 casket display room, a viewing area, or an area for conducting  
10 funeral services, or all of them, and where any portion of the  
11 funeral service or arrangements for the disposition of a dead human  
12 body is conducted.

13           Sec. 543. Casket means a receptacle for a dead human  
14 body and does not include vaults, lawn crypts, mausoleums, or other  
15 outside receptacles for caskets.

16           Sec. 544. Crematory authority means the legal entity  
17 subject to licensure by the department to maintain and operate a  
18 crematory and perform cremation.

19           Sec. 545. (1) Embalming means the practice of preparing a  
20 dead human body for burial or other final disposal by a licensed  
21 funeral director and embalmer or an apprentice, requesting and  
22 obtaining burial or removal permits, or assuming any of the other  
23 duties incident to the practice of embalming.

24           (2) Any person who publicly professes to be a funeral  
25 director and embalmer or an apprentice is deemed to be practicing

1 embalming.

2 (3) The performance of the following acts is also  
3 deemed to be the practice of embalming: (a) The disinfection  
4 and preservation of dead human beings, entire or in part; and (b)  
5 the attempted disinfection and preservation thereof by the use or  
6 application of chemical substances, fluids, or gases ordinarily  
7 used, prepared, or intended for such purposes, either by outward  
8 application of such chemical substances, fluids, or gases on  
9 the body or by introducing them into the body, by vascular or  
10 hypodermic injection, or by direct introduction into the organs or  
11 cavities.

12 Sec. 546. Funeral directing means (1) counseling families  
13 or next of kin in regard to the conduct of a funeral service for a  
14 dead human body for burial, disposition, or cremation or directing  
15 or supervising burial, disposition, or cremation of dead human  
16 bodies, (2) providing for or maintaining a funeral establishment,  
17 or (3) the act of representing oneself as or using in connection  
18 with one's name the title of funeral director, mortician, or any  
19 other title implying that he or she is engaged in the business of  
20 funeral directing.

21 Sec. 547. Funeral establishment means a place of business  
22 situated at a specific street address or location devoted to the  
23 care and preparation of dead human bodies for burial, disposition,  
24 or cremation or to conducting or arranging funeral services for  
25 dead human bodies.

1           Sec. 548. Licensure examination means a national  
2 standardized examination, the state jurisprudence examination, and  
3 the vital statistic forms examination.

4           Sec. 549. Supervision means the direct oversight or the  
5 easy availability of the supervising funeral director and embalmer.  
6 The first twenty-five funeral assists and embalmings shall be  
7 completed under direct onsite supervision of the supervising  
8 funeral director and embalmer.

9           Sec. 550. Section 71-1302, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           ~~71-1302~~ (1) ~~On~~ and after January 1, 1994, the The  
12 department shall issue a single license to practice funeral  
13 directing and embalming to applicants who meet the requirements  
14 of this section. An applicant for a license as a funeral director  
15 and embalmer shall file with the department an application upon a  
16 form prepared by the department and shall:

17           (a) Present satisfactory proof that the applicant has  
18 earned the equivalent of sixty semester hours of college credit in  
19 addition to a full course of instruction in an accredited school  
20 of mortuary science. Such hours shall include the equivalent of  
21 (i) six semester hours of English, (ii) six semester hours of  
22 accounting, (iii) eight semester hours of chemistry, (iv) twelve  
23 semester hours of a biological science relating to the human body,  
24 and (v) six semester hours of psychology or counseling; and

25           (b) Present proof to the department that he or she has

1 completed the following training:

2 (i) A full course of instruction in an accredited school  
3 of mortuary science;

4 (ii) A twelve-month apprenticeship under the supervision  
5 of a licensed funeral director and embalmer practicing in the  
6 State of Nebraska, which apprenticeship shall consist of arterially  
7 embalming twenty-five bodies and assisting with twenty-five  
8 funerals; and

9 (iii) Successful completion of the licensure examination  
10 approved by the board.

11 (2) Any person holding a valid license as an embalmer  
12 on January 1, 1994, may continue to provide services as an  
13 embalmer after such date. Upon expiration of such valid license,  
14 the licensee person may apply for renewal thereof, and the  
15 department ~~on the recommendation of the board~~ shall renew such  
16 license to practice embalming. ~~The recommendation of the board,~~ the  
17 ~~application,~~ and the renewal fee shall be based on the requirements  
18 for renewal of such license in existence immediately prior to  
19 January 1, 1994.

20 (3) Any person holding a valid license as a funeral  
21 director on January 1, 1994, may continue to provide services as  
22 a funeral director after such date. Upon expiration of such valid  
23 license, the licensee person may apply for renewal thereof, and  
24 the department ~~on the recommendation of the board~~ shall renew such  
25 license to practice funeral directing. ~~The recommendation of the~~

1 board, the application, and the renewal fee shall be based on the  
2 requirements for renewal of such license in existence immediately  
3 prior to January 1, 1994.

4           ~~(4) The department on the recommendation of the board~~  
5 shall issue a single license to practice funeral directing and  
6 embalming to a person holding a valid license as an embalmer  
7 and a valid license as a funeral director on January 1, 1994,  
8 when such valid licenses expire. A licensee desiring to obtain a  
9 license under this subsection shall apply on forms prescribed by  
10 the department and pay a fee equal to the renewal fee for such  
11 license established by the department.

12           Sec. 551. Section 71-1303, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~71-1303~~ When the applicant has satisfied the department  
15 that he or she either has completed a full course of instruction in  
16 an accredited school of mortuary science or has completed all but  
17 the final semester of such course, the applicant shall be eligible  
18 to take the national standardized examination. The applicant shall  
19 pass such examination before beginning his or her twelve-month  
20 apprenticeship or the final six months thereof. When the applicant  
21 has satisfied the department that he or she has the qualifications  
22 specified in section ~~71-1304~~, 552 of this act, he or she shall be  
23 eligible to take the state jurisprudence and vital statistic forms  
24 examination. A grade of seventy-five or above on each part of the  
25 licensure examination shall be a passing grade.

1           Sec. 552. Section 71-1304, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-1304~~ (1) Before beginning an apprenticeship, an  
4 applicant shall ~~register with the department on a form provided~~  
5 ~~by the department for that purpose.~~ apply for an apprentice  
6 license. The applicant shall show that he or she has completed  
7 thirty-nine of the sixty hours required in subdivision (1)(a) of  
8 section ~~71-1302.~~ 550 of this act. The applicant may complete the  
9 twelve-month apprenticeship in either a split apprenticeship or a  
10 full apprenticeship as provided in this section.

11           (2) A split apprenticeship shall be completed in the  
12 following manner:

13           (a) ~~Registration with the department~~ Application for an  
14 apprentice license to complete a six-month apprenticeship prior  
15 to attending an accredited school of mortuary science, which  
16 ~~registration license~~ shall be valid for six months from the date of  
17 issuance and shall not be extended by the board. The apprenticeship  
18 shall be completed over a continuous six-month period;

19           (b) ~~successful~~ Successful completion of a full course of  
20 study in an accredited school of mortuary science;

21           (c) ~~successful~~ Successful passage of the national  
22 standardized examination; and

23           (d) ~~registration with the department~~ Application for an  
24 apprentice license to complete the final six-month apprenticeship,  
25 which ~~registration license~~ shall be valid for six months from



1 the date of issuance and shall not be extended by the board.  
2 The apprenticeship shall be completed over a continuous six-month  
3 period.

4 (3) A full apprenticeship shall be completed in the  
5 following manner:

6 (a) Successful completion of a full course of study in an  
7 accredited school of mortuary science;

8 (b) ~~successful~~ Successful passage of the national  
9 standardized examination; and

10 (c) ~~registration with the department~~ Application for an  
11 apprentice license to complete a twelve-month apprenticeship. This  
12 ~~registration license~~ shall be valid for twelve months from the  
13 date of issuance and shall not be extended by the board. The  
14 apprenticeship shall be completed over a continuous twelve-month  
15 period.

16 (4) An individual registered as an apprentice on December  
17 1, 2008, shall be deemed to be licensed as an apprentice for the  
18 term of the apprenticeship on such date. ~~The department may, on~~  
19 ~~the recommendation of the board, adopt and promulgate rules and~~  
20 ~~regulations for apprentices in funeral directing and embalming.~~

21 Sec. 553. Section 71-1305, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-1305~~ The board shall have the privileges extended to  
24 them for the use of bodies for dissection, demonstrating, and  
25 teaching under the requirements of the State Anatomical Board for

1 the distribution and delivery of dead human bodies.

2 Sec. 554. Section 71-1306, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 ~~71-1306~~ The finding of chemical substances, fluids, or  
5 gases ordinarily used in embalming or any trace thereof in a dead  
6 human body, the use of which is prohibited except by a licensed  
7 funeral director and embalmer, or the placing thereof upon a dead  
8 human body by other than a licensed funeral director and embalmer  
9 shall constitute prima facie evidence of the violation of ~~sections~~  
10 ~~71-1301 to 71-1306.~~ the Funeral Directing and Embalming Practice  
11 Act.

12 Sec. 555. Section 71-1327, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-1327~~ (1) ~~The application for an initial funeral~~  
15 ~~establishment license shall be in writing and verified on a form~~  
16 ~~provided by the department.~~ In order for a funeral establishment  
17 to be licensed, it shall employ as its manager a licensed funeral  
18 director and embalmer who shall be responsible for all transactions  
19 conducted in the funeral establishment, except that any person  
20 holding a valid license as a funeral director ~~on December 31, 1993,~~  
21 may serve as a manager of a funeral establishment. The manager  
22 shall maintain and operate the funeral establishment in accordance  
23 with all laws, rules, and regulations relating thereto.

24 (2) ~~A license to operate a funeral establishment may be~~  
25 ~~granted by the department upon the recommendation of the board.~~

1 If the applicant for a funeral establishment license proposes to  
2 operate more than one establishment, a separate application and fee  
3 shall be required for each location.

4 (3) A funeral establishment desiring to relocate shall  
5 make application ~~therefor on a form provided by~~ to the department  
6 at least thirty days prior to the designated date of such change  
7 in location. ~~The application for relocation shall be accompanied by~~  
8 ~~the required fee.~~

9 (4) A funeral establishment desiring to change its  
10 manager shall make application ~~on a form provided by~~ to the  
11 department at least fifteen days prior to the designated date of  
12 such change, except that in the case of death of a manager, the  
13 application shall be made immediately following such death. ~~The~~  
14 ~~application shall be accompanied by the required fee.~~ No license  
15 shall be issued under this subsection by the department until the  
16 original license has been surrendered.

17 (5) A funeral establishment desiring to change its name  
18 shall request such change ~~on a form provided by~~ to the department  
19 at least thirty days prior to the designated change in name.

20 Sec. 556. Section 71-1327.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 ~~71-1327.01~~ ~~(1)~~ The application for an initial branch  
23 establishment license shall be in writing on a form provided by the  
24 department.

25 ~~(2)~~ A license to operate a branch establishment may be

1 ~~granted by the department upon the recommendation of the board.~~

2 (1) If the applicant for a branch establishment license proposes to  
3 operate more than one branch establishment, a separate application  
4 and fee shall be required for each location.

5 ~~(3)~~ (2) A branch establishment desiring to relocate shall  
6 make application ~~therefor on a form provided by~~ to the department  
7 at least thirty days prior to the designated date of such change  
8 in location. ~~The application for relocation shall be accompanied by~~  
9 ~~the required fee.~~

10 ~~(4)~~ (3) A branch establishment desiring to change its  
11 manager shall make application ~~on a form provided by~~ to the  
12 department at least fifteen days prior to the designated date of  
13 such change, except that in the case of death of the manager,  
14 the establishment shall make application immediately after such  
15 death. ~~The application shall be accompanied by the required fee.~~  
16 No license shall be issued by the department under this subsection  
17 until the original license has been surrendered.

18 ~~(5)~~ (4) A branch establishment desiring to change its  
19 name shall ~~request such change on a form provided by~~ apply to the  
20 department at least thirty days prior to the designated change in  
21 name.

22 Sec. 557. The department, with the recommendation of  
23 the board, may issue a license based on licensure in another  
24 jurisdiction to an individual who meets the requirements of the  
25 Funeral Directing and Embalming Practice Act or substantially

1 equivalent requirements as determined by the department, with the  
2 recommendation of the board.

3           Sec. 558. The department shall establish and collect  
4 fees for credentialing under the Funeral Directing and Embalming  
5 Practice Act as provided in sections 51 to 57 of this act.

6           Sec. 559. Section 71-1331, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~71-1331 (1) Every licensed funeral establishment and~~  
9 ~~branch establishment shall pay biennially a fee for the renewal~~  
10 ~~of its license. All renewal fees shall become due and payable on~~  
11 ~~February 1 of each even-numbered year. Renewals shall be processed~~  
12 ~~in accordance with section 71-110.(2) Any person, partnership,~~  
13 ~~limited liability company, firm, corporation, association, or other~~  
14 ~~organization which (a) (1) without having complied with sections~~  
15 ~~71-1301 to 71-1354 the Funeral Directing and Embalming Practice~~  
16 ~~Act and without having first obtained a license (i) (a) engages~~  
17 ~~directly or indirectly in the business of funeral directing and~~  
18 ~~embalming, (ii) (b) holds himself, herself, or itself out to the~~  
19 ~~public as a funeral director and embalmer, or (iii) (c) performs or~~  
20 ~~attempts to perform any of the services of a funeral establishment~~  
21 ~~or branch establishment or of a funeral director and embalmer~~  
22 ~~relating to the disposition of dead human bodies or (b) (2)~~  
23 ~~continues to perform such services after the license has expired~~  
24 ~~or has been revoked or suspended shall be guilty of a Class III~~  
25 ~~misdemeanor and shall be dealt with in the same manner as outlined~~

1 in section ~~71-167.~~ 118 of this act. Each day so engaged in such  
2 business shall constitute and be deemed a separate offense.

3 Sec. 560. Section 71-1333, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-1333~~ (1) ~~The department may deny, refuse renewal of,~~  
6 ~~revoke, limit, suspend, or take other disciplinary measures against~~  
7 ~~a license or an application for a license to practice funeral~~  
8 ~~directing and embalming pursuant to section 71-155 if the applicant~~  
9 ~~or licensee is found guilty of any of the acts or offenses~~  
10 ~~specified in sections 71-147 and 71-148 or~~ In addition to the  
11 grounds for disciplinary action found in sections 78 and 79 of this  
12 act, a credential issued under the Funeral Directing and Embalming  
13 Practice Act may be denied, refused renewal, limited, revoked,  
14 or suspended or have other disciplinary measures taken against it  
15 in accordance with section 96 of this act when the applicant or  
16 credential holder is found guilty of any of the following acts or  
17 offenses:

18 (a) Solicitation of dead human bodies by the licensee  
19 credential holder or his or her agents, assistants, or employees,  
20 either prior to or following death;

21 (b) ~~the~~ The purchasing of funeral or embalming  
22 engagements or the payment of a commission either directly or  
23 indirectly or offer of payment of such commission to any agent,  
24 assistant, or employee for the purpose of securing business;

25 (c) ~~using~~ Using indecent, profane, or obscene language in

1 the presence of a dead human body or within the immediate presence  
2 or hearing of the family, relatives, or friends of the deceased  
3 prior to the burial of the deceased;

4 (d) ~~soliciting~~ Soliciting or accepting any remuneration,  
5 commission, bonus, or rebate in consideration of the recommending  
6 or causing a dead human body to be placed in any crematory,  
7 mausoleum, or cemetery;

8 (e) ~~using~~ Using any casket or part thereof which has  
9 previously been used as a receptacle for, or in connection with,  
10 the shipment, burial, or other disposition of a dead human body  
11 without first identifying such item as used;

12 (f) ~~violations~~ Violations of any state law, municipal  
13 ordinance, or rule or regulation of the department or other body  
14 having regulatory powers, relating to the handling, custody, care,  
15 or transportation of dead human bodies;

16 (g) ~~refusal~~ Refusal to surrender promptly the custody of  
17 a dead human body upon request of a person or persons lawfully  
18 entitled to the custody thereof; or

19 (h) ~~taking~~ Taking undue advantage of a patron or patrons,  
20 or being found guilty of fraud, or misrepresentation in the selling  
21 of merchandise or service to patrons.

22 (2) An applicant or a ~~licensee~~ credential holder shall be  
23 subject to the penalty provisions of this section if found guilty  
24 of any of the following:

25 (a) Paying, directly or indirectly, any money or other

1 thing of value as a commission or gratuity for the securing of  
2 business;

3 (b) ~~the~~ The buying of a business of any person, firm, or  
4 corporation, or the paying of a commission to any person, firm,  
5 or corporation or to any hospital or any institution where death  
6 occurs or to any hospital superintendent, nurse, intern, or other  
7 employee, whether directly or indirectly; or

8 (c) ~~willful~~ Willful malpractice.

9 (3) Any funeral director and embalmer who commits any  
10 of the acts or things prohibited by this section or otherwise  
11 violates any of the provisions thereof shall be guilty of a Class  
12 II misdemeanor.

13 ~~(3)~~ (4) Nothing in this section shall be construed to  
14 prohibit a licensed funeral director and embalmer from engaging in  
15 sales of funeral goods or services under the Burial Pre-Need Sale  
16 Act.

17 Sec. 561. Section 71-1339, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 ~~71-1339~~ (1) Except as otherwise provided in section  
20 71-20,121, the right to control the disposition of the remains of a  
21 deceased person, except in the case of a minor subject to section  
22 23-1824 and unless other directions have been given by the decedent  
23 in the form of a testamentary disposition or a pre-need contract,  
24 vests in the following persons in the order named:

25 ~~(1)~~ (a) Any person authorized to direct the disposition



1 of the decedent's body pursuant to a notarized affidavit  
2 authorizing such disposition and signed and sworn to by the  
3 decedent. Such an affidavit shall be sufficient legal authority for  
4 authorizing disposition without additional authorization from the  
5 decedent, the decedent's family, or the decedent's estate. Such  
6 person shall not be considered an attorney in fact pursuant to  
7 sections 30-3401 to 30-3432;

8 ~~(2)~~ (b) The surviving spouse of the decedent;

9 ~~(3)~~ (c) If the surviving spouse is incompetent or not  
10 available or if there is no surviving spouse, the decedent's  
11 surviving adult children. If there is more than one adult child,  
12 any adult child, after confirmation in writing of the notification  
13 of all other adult children, may direct the manner of disposition  
14 unless the funeral establishment or crematory authority receives  
15 written objection to the manner of disposition from another adult  
16 child;

17 ~~(4)~~ (d) The decedent's surviving parents;

18 ~~(5)~~ (e) The persons in the next degree of kinship under  
19 the laws of descent and distribution to inherit the estate of the  
20 decedent. If there is more than one person of the same degree, any  
21 person of that degree may direct the manner of disposition;

22 ~~(6)~~ (f) A guardian of the person of the decedent at the  
23 time of such person's death;

24 ~~(7)~~ (g) The personal representative of the decedent;

25 ~~(8)~~ (h) The State Anatomical Board or county board in the

1 case of an indigent person or any other person the disposition of  
2 whose remains is the responsibility of the state or county; or

3 ~~(9)~~ (i) A representative of an entity described in  
4 section ~~71-1340~~ 562 of this act that has arranged with the funeral  
5 establishment or crematory authority to cremate a body part in the  
6 case of body parts received from such entity described in section  
7 ~~71-1340~~, 562 of this act.

8 (2) A funeral director, funeral establishment, crematory  
9 authority, or crematory operator shall not be subject to criminal  
10 prosecution or civil liability for carrying out the otherwise  
11 lawful instructions of the person or persons described in this  
12 section if the funeral director or crematory authority or operator  
13 reasonably believes such person is entitled to control the final  
14 disposition of the remains of the deceased person.

15 (3) The liability for the reasonable cost of the final  
16 disposition of the remains of the deceased person devolves jointly  
17 and severally upon all kin of the decedent in the same degree of  
18 kindred and upon the estate of the decedent and, in cases when the  
19 county board has the right to control disposition of the remains  
20 under subdivision ~~(8)~~ (1)(h) of this section, upon the county in  
21 which death occurred from funds available for such purpose.

22 Sec. 562. Section 71-1340, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 ~~71-1340~~ (1) A decedent, prior to his or her death, may  
25 direct the preparation for the final disposition of his or her

1 remains by written instructions. If such instructions are in a  
2 will or other written instrument, the decedent may direct that  
3 the whole or any part of such remains be given to a teaching  
4 institution, university, college, or legally licensed hospital,  
5 to the ~~Director of Regulation and Licensure~~, director, or to or  
6 for the use of any nonprofit blood bank, artery bank, eye bank,  
7 or other therapeutic service operated by any agency approved by  
8 the ~~Director of Regulation and Licensure~~ director under rules and  
9 regulations established by the director. The person or persons  
10 otherwise entitled to control the disposition of the remains under  
11 this section shall faithfully carry out the directions of the  
12 decedent.

13         (2) If such instructions are contained in a will or  
14 other written instrument, they shall be immediately carried out,  
15 regardless of the validity of the will in other respects or of the  
16 fact that the will may not be offered for or admitted to probate  
17 until a later date.

18         (3) This section shall be administered and construed to  
19 the end that such expressed instructions of any person shall be  
20 faithfully and promptly performed.

21         (4) A funeral director and embalmer, physician, or  
22 cemetery authority shall not be liable to any person or persons for  
23 carrying out such instructions of the decedent, and any teaching  
24 institution, university, college, or legally licensed hospital or  
25 the ~~Director of Regulation and Licensure~~ director shall not be

1 liable to any person or persons for accepting the remains of any  
2 deceased person under a will or other written instrument as set  
3 forth in this section.

4           Sec. 563. Section 71-1341, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           ~~71-1341~~ A written authorization for an autopsy given  
7 by the survivor or survivors, as enumerated in section ~~71-1339,~~  
8 561 of this act, having the right to control the disposition of  
9 remains may, subject to section 23-1824 and when not inconsistent  
10 with any directions given by the decedent pursuant to section  
11 ~~71-1340,~~ 562 of this act, include authorization for the removal  
12 of any specifically named organ or organs for therapeutic or  
13 scientific purposes. Pursuant to any such written authorization,  
14 any structure or organ may be given to the ~~Director of Regulation~~  
15 ~~and Licensure~~ director or to any other therapeutic service  
16 operated by any nonprofit agency approved by the ~~Director of~~  
17 ~~Regulation and Licensure,~~ director, including, but not limited  
18 to, a teaching institution, university, college, legally licensed  
19 hospital, nonprofit blood bank, nonprofit artery bank, nonprofit  
20 eye bank, or nationally recognized nonprofit hormone and pituitary  
21 program. The person or persons performing any autopsy shall do so  
22 within a reasonable time and without delay and shall not exceed the  
23 removal permission contained in such written authorization, and the  
24 remains shall not be significantly altered in external appearance  
25 nor shall any portion thereof be removed for purposes other than

1 those expressly permitted in this section.

2 Sec. 564. Section 71-1346, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 ~~71-1346~~ A written statement, signed by the funeral  
5 director and embalmer or legal representative, of all principal  
6 services and furnishings to be supplied by the funeral director  
7 and embalmer for the preparation and burial or cremation of  
8 the deceased, together with the actual cost of the services  
9 including the total actual costs, shall be given to the next of  
10 kin or other person responsible for the making of the funeral  
11 arrangements prior to the burial or disposition of the deceased.  
12 For purposes of this section principal services shall include,  
13 but not be limited to, the casket, outer receptacle, facilities  
14 and equipment, professional services, nonlocal transportation,  
15 clothing, an itemization of all cash advances, and sales tax.  
16 A copy of such statement, signed by the person to whom it was  
17 tendered, shall be retained in the records of the funeral director  
18 and embalmer for a period of at least two years.

19 Sec. 565. Sections 565 to 582 of this act shall be known  
20 and may be cited as the Hearing Aid Instrument Dispensers and  
21 Fitters Practice Act.

22 Sec. 566. Section 71-4701, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 ~~71-4701~~ As used in sections 71-4701 to 71-4719, For  
25 purposes of the Hearing Aid Instrument Dispensers and Fitters

1 Practice Act and elsewhere in the Uniform Credentialing Act, unless  
2 the context otherwise requires, the definitions found in sections  
3 567 to 571 of this act apply. +

4 ~~(1) Department shall mean the Department of Health and~~  
5 ~~Human Services Regulation and Licensure;~~

6 ~~(2) License shall mean a license issued by the state~~  
7 ~~under such sections to hearing aid instrument dispensers and~~  
8 ~~fitters;~~

9 ~~(3) Temporary license shall mean a license issued while~~  
10 ~~the applicant is in training to become a licensed hearing aid~~  
11 ~~instrument dispenser and fitter;~~

12 ~~(4) Board shall mean the Board of Hearing Aid Instrument~~  
13 ~~Dispensers and Fitters;~~

14 ~~(5) Hearing aid shall mean any wearable instrument or~~  
15 ~~device designed for or offered for the purpose of aiding or~~  
16 ~~compensating for impaired human hearing and any parts, attachments,~~  
17 ~~or accessories, including earmold, but excluding batteries and~~  
18 ~~cords. A hearing aid shall also be known as a hearing instrument;~~

19 ~~(6) Practice of fitting hearing aids shall mean the~~  
20 ~~measurement of human hearing by means of an audiometer or by~~  
21 ~~other means approved by the board solely for the purpose of making~~  
22 ~~selections, adaptations, or sale of hearing aids. The term also~~  
23 ~~includes the making of impressions for earmolds. A dispenser, at~~  
24 ~~the request of a physician or a member of related professions, may~~  
25 ~~make audiograms for the professional's use in consultation with the~~

1 ~~hard-of-hearing,~~ and

2           ~~(7) Sell, sale, or dispense shall mean any transfer of~~  
3 ~~title or of the right to use by lease, bailment, or any other~~  
4 ~~contract, excluding (a) wholesale transactions with distributors~~  
5 ~~or dispensers and (b) distribution of hearing aids by nonprofit~~  
6 ~~service organizations at no cost to the recipient for the hearing~~  
7 ~~aid.~~

8           Sec. 567. Board means the Board of Hearing Aid Instrument  
9 Dispensers and Fitters.

10           Sec. 568. Hearing aid means any wearable instrument or  
11 device designed for or offered for the purpose of aiding or  
12 compensating for impaired human hearing and any parts, attachments,  
13 or accessories, including earmold, but excluding batteries and  
14 cords. A hearing aid shall also be known as a hearing instrument.

15           Sec. 569. Practice of fitting hearing aids means the  
16 measurement of human hearing by means of an audiometer or by  
17 other means approved by the board solely for the purpose of making  
18 selections, adaptations, or sale of hearing aids. The term also  
19 includes the making of impressions for earmolds. A dispenser, at  
20 the request of a physician or a member of related professions, may  
21 make audiograms for the professional's use in consultation with the  
22 hard-of-hearing.

23           Sec. 570. Sell, sale, or dispense means any transfer of  
24 title or of the right to use by lease, bailment, or any other  
25 contract, excluding (1) wholesale transactions with distributors

1 or dispensers and (2) distribution of hearing aids by nonprofit  
2 service organizations at no cost to the recipient for the hearing  
3 aid.

4           Sec. 571. Temporary license means a license issued while  
5 the applicant is in training to become a licensed hearing aid  
6 instrument dispenser and fitter.

7           Sec. 572. Section 71-4715, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-4715 ~~(1)~~ There is hereby established a Board of  
10 Hearing Aid Instrument Dispensers and Fitters which shall guide,  
11 advise, and make recommendations to the department. ~~(2)~~ Members of  
12 the board shall be residents of the state. The board shall consist  
13 of five professional members and one public member appointed  
14 pursuant to section 58 of this act. The members shall meet the  
15 requirements of sections 64 and 65 of this act. The professional  
16 members shall consist of three hearing aid instrument dispensers  
17 and fitters, one otolaryngologist, and one audiologist. At the  
18 expiration of the four-year terms of the members serving on  
19 December 1, 2008, successors shall be appointed for five-year  
20 terms. and one public member. Each hearing aid instrument  
21 dispenser and fitter on the board shall have not less than five  
22 years of experience and shall hold a valid license. The public  
23 member shall be at least the age of majority, a resident of  
24 this state at least five years preceding appointment, and a  
25 representative of consumer viewpoints.



1           ~~(3) All members of the board shall be appointed by the~~  
2           ~~State Board of Health. The term of office of each member shall be~~  
3           ~~for four years, except that of the first members appointed under~~  
4           ~~sections 71-4701 to 71-4719, two shall be appointed for two years,~~  
5           ~~two shall be appointed for three years, and one shall be appointed~~  
6           ~~for four years. The State Board of Health shall appoint the public~~  
7           ~~member as of December 1, 1994, for a term of four years. Before a~~  
8           ~~member's term expires, the State Board of Health shall appoint a~~  
9           ~~successor to take office on the expiration of such term. A vacancy~~  
10           ~~in the office of a member shall be filled by appointment for the~~  
11           ~~unexpired term. The members shall annually designate one member to~~  
12           ~~serve as chairperson and another to serve as secretary-treasurer.~~  
13           ~~No member who has served two or more full terms may be reappointed~~  
14           ~~to the Board of Hearing Aid Instrument Dispensers and Fitters until~~  
15           ~~at least one year after the expiration of his or her most recent~~  
16           ~~full term of office.~~

17           ~~(4) Members of the board shall receive for each day~~  
18           ~~actually engaged in the duties of the office a per diem amount~~  
19           ~~of twenty-five dollars and reimbursement for actual and necessary~~  
20           ~~travel and other expenses as provided in sections 81-1174 to~~  
21           ~~81-1177. Such remuneration and reimbursement shall be paid from~~  
22           ~~appropriations made for this purpose.~~

23           ~~(5) The State Board of Health shall have power to remove~~  
24           ~~from office at any time any member of the Board of Hearing~~  
25           ~~Aid Instrument Dispensers and Fitters, after a public hearing~~

1 pursuant to the Administrative Procedure Act, for physical or  
2 mental incapacity to carry out the duties of a board member, for  
3 continued neglect of duty, for incompetency, for acting beyond the  
4 individual member's scope of authority, for malfeasance in office,  
5 for any cause for which a license in the member's profession may  
6 be suspended or revoked, for a lack of licensure in the member's  
7 profession, or for other sufficient cause.

8           Sec. 573. Section 71-4702, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-4702 (1) No person shall engage in the sale of or  
11 practice of fitting hearing aids or display a sign or in any  
12 other way advertise or represent himself or herself as a person  
13 who practices the fitting and sale or dispensing of hearing aids  
14 unless he or she holds an unsuspended, unrevoked license issued  
15 by the department as provided in sections 71-4701 to 71-4719. The  
16 license shall be conspicuously posted in his or her office or place  
17 of business. the Hearing Aid Instrument Dispensers and Fitters  
18 Practice Act. A license shall confer upon the holder the right to  
19 select, fit, and sell hearing aids.

20           (2) Nothing in such sections the act shall prohibit  
21 a corporation, partnership, limited liability company, trust,  
22 association, or other like organization maintaining an established  
23 business address from engaging in the business of selling or  
24 offering for sale hearing aids at retail without a license if  
25 it employs only properly licensed natural persons in the direct

1 sale and fitting of such products. ~~Such corporation, partnership,~~  
2 ~~limited liability company, trust, association, or like organization~~  
3 ~~shall file annually with the board a list of all licensed hearing~~  
4 ~~aid instrument dispensers and fitters directly or indirectly~~  
5 ~~employed by it. Such corporation, partnership, limited liability~~  
6 ~~company, trust, association, or like organization shall also file~~  
7 ~~with the board a statement on a form approved by the board that~~  
8 ~~it submits itself to the rules and regulations of the department~~  
9 ~~and the provisions of such sections which the department deems~~  
10 ~~applicable.~~

11 (3) Nothing in such sections the act shall prohibit  
12 the holder of a license from the fitting and sale of wearable  
13 instruments or devices designed for or offered for the purpose of  
14 conservation or protection of hearing.

15 Sec. 574. Section 71-4704, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-4704 (1) Sections 71-4701 to 71-4719 are The Hearing  
18 Aid Instrument Dispensers and Fitters Practice Act is not intended  
19 to prevent any person from engaging in the practice of measuring  
20 human hearing for the purpose of selection of hearing aids if such  
21 person or organization employing such person does not sell hearing  
22 aids or accessories thereto.

23 (2) ~~Such sections~~ The act shall not apply to a person  
24 who is a physician licensed to practice in this state, except that  
25 such physician shall not delegate the authority to fit and dispense

1 hearing aids unless the person to whom the authority is delegated  
2 is licensed under ~~such sections,~~ the act.

3 Sec. 575. Section 71-4703, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-4703~~ (1) Any person who practices the fitting and  
6 sale of hearing aids shall deliver to each person supplied with a  
7 hearing aid a receipt which shall contain the licensee's signature  
8 and show his or her business address and the number of his or her  
9 certificate, together with specifications as to the make and model  
10 of the hearing aid furnished, and clearly stating the full terms  
11 of sale. If an aid which is not new is sold, the receipt and the  
12 container thereof shall be clearly marked as used or reconditioned,  
13 whichever is applicable, with terms of guarantee, if any.

14 (2) Such receipt shall bear in no smaller type than  
15 the largest used in the body copy portion the following: The  
16 purchaser has been advised at the outset of his or her relationship  
17 with the hearing aid instrument dispenser that any examination or  
18 representation made by a licensed hearing aid instrument dispenser  
19 and fitter in connection with the fitting and selling of this  
20 hearing aid is not an examination, diagnosis, or prescription by  
21 a person licensed to practice medicine in this state and therefor  
22 must not be regarded as medical opinion or advice.

23 Sec. 576. Section 71-4707, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~71-4707~~ (1) Any person may obtain a license under the

1 Hearing Aid Instrument Dispensers and Fitters Practice Act by

2 successfully passing a qualifying examination if the applicant:

3 (a) Is at least twenty-one years of age; and

4 ~~(b) Is of good moral character;~~

5 ~~(c) (b) Has an education equivalent to a four-year course~~

6 in an accredited high school. and

7 ~~(d) Is free of contagious or infectious disease.~~

8 (2) ~~Each applicant for license by examination shall~~

9 ~~appear at a time and place and before such persons as the~~

10 ~~department may designate to be examined by means of written and~~

11 ~~practical tests in order to demonstrate that he or she is qualified~~

12 ~~to practice the fitting and sale of hearing aids. The qualifying~~

13 examination shall consist of written and practical tests. ~~The~~

14 ~~examination shall not be conducted in such a manner that college~~

15 ~~training is required in order to pass. Nothing in this examination~~

16 ~~shall imply that the applicant is required to possess the degree of~~

17 ~~medical competence normally expected of physicians.~~

18 (3) ~~The department shall give examinations as determined~~

19 approved by the board. A ~~7~~ ~~except that~~ a minimum of two

20 ~~examinations shall be offered each calendar year.~~

21 Sec. 577. Section 71-4708, Reissue Revised Statutes of

22 Nebraska, is amended to read:

23 ~~71-4708~~ (1) The department, with the ~~upon~~ recommendation

24 of the board, shall issue a temporary license to any person who has

25 met the requirements for licensure pursuant to subsection (1) of

1 section ~~71-4707~~, 576 of this act. Previous experience or a waiting  
2 period shall not be required to obtain a temporary license.

3 (2) Any person who desires a temporary license shall make  
4 application to the department. ~~Such application shall include the~~  
5 ~~applicant's social security number and shall be accompanied by the~~  
6 ~~required fee~~. The temporary license shall be issued for a period of  
7 one year. A person holding a valid license shall be responsible for  
8 the supervision and training of such applicant and shall maintain  
9 adequate personal contact with him or her.

10 (3) If a person who holds a temporary license under  
11 this section has not successfully passed the licensing examination  
12 within twelve months of the date of issuance of the temporary  
13 license, the temporary license may be renewed or reissued for a  
14 twelve-month period, ~~upon payment of the required fee~~. In no case  
15 may a temporary license be renewed or reissued more than once. A  
16 renewal or reissuance may take place any time after the expiration  
17 of the first twelve-month period.

18 ~~(4) The department shall have the power to deny, revoke,~~  
19 ~~limit, suspend, or otherwise discipline a temporary license upon~~  
20 ~~the grounds and in accordance with the Uniform Licensing Law.~~

21 Sec. 578. Section 71-4709, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-4709~~ The qualifying examination provided in section  
24 ~~71-4707~~ 576 of this act shall be designed to demonstrate the  
25 applicant's adequate technical qualifications by:

1           (1) Tests of knowledge in the following areas as they  
2 pertain to the fitting and sale of hearing aids:

3           (a) Basic physics of sound;

4           (b) The anatomy and physiology of the ear; and

5           (c) The function of hearing aids; and

6           (2) Practical tests of proficiency in the following  
7 techniques as they pertain to the fitting of hearing aids:

8           (a) Pure tone audiometry, including air conduction  
9 testing and bone conduction testing;

10          (b) Live voice or recorded voice speech audiometry;

11          (c) Masking when indicated;

12          (d) Recording and evaluation of audiograms and speech  
13 audiometry to determine proper selection and adaptation of a  
14 hearing aid; and

15          (e) Taking earmold impressions.

16          Sec. 579. An applicant for licensure to practice hearing  
17 aid instrument dispensing and fitting who has met the education and  
18 examination requirements in section 576 of this act, who passed the  
19 examination more than three years prior to the time of application  
20 for licensure, and who is not practicing at the time of application  
21 for licensure shall present proof satisfactory to the department  
22 that he or she has within the three years immediately preceding  
23 the application for licensure completed continuing competency  
24 requirements approved by the board pursuant to section 45 of  
25 this act.

1           Sec. 580. An applicant for licensure to practice hearing  
2 aid instrument dispensing and fitting who has met the standards  
3 set by the board pursuant to section 26 of this act for a license  
4 based on licensure in another jurisdiction but is not practicing  
5 at the time of application for licensure shall present proof  
6 satisfactory to the department that he or she has within the three  
7 years immediately preceding the application for licensure completed  
8 continuing competency requirements approved by the board pursuant  
9 to section 45 of this act.

10           Sec. 581. Section 71-4712, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           ~~71-4712 (1)~~ ~~The department may deny, revoke, or suspend~~  
13 ~~any license to practice as a hearing aid instrument dispenser and~~  
14 ~~fitter issued by the department or applied for pursuant to section~~  
15 ~~71-4707 or otherwise discipline any applicant or licensee when the~~  
16 ~~applicant or licensee commits or is convicted of any of the acts~~  
17 ~~or offenses set out in sections 71-147 and 71-148 or~~ In addition  
18 to the grounds for disciplinary action found in sections 78 and 79  
19 of this act, a credential issued under the Hearing Aid Instrument  
20 Dispensers and Fitters Practice Act may be denied, refused renewal,  
21 limited, revoked, or suspended or have other disciplinary measures  
22 taken against it in accordance with section 96 of this act when  
23 the applicant or credential holder is found guilty of any of the  
24 following acts or offenses:

25           ~~(a)~~ (1) Fitting and selling a hearing aid to a child



1 under the age of sixteen who has not been examined and cleared for  
 2 hearing aid use within a six-month period by an otolaryngologist  
 3 without a signed waiver by the legal guardian. This subdivision  
 4 shall not apply to the replacement with an identical model of any  
 5 hearing aid within one year of its purchase;

6 ~~(b) (2) Any other condition or acts which violate the~~  
 7 Trade Practice Rules for the Hearing Aid Industry of the Federal  
 8 Trade Commission or the Food and Drug Administration; or

9 (3) Violation of any provision of the Hearing Aid  
 10 Instrument Dispenser and Fitters Practice Act.

11 ~~(c) Conducting business while suffering from a contagious~~  
 12 ~~or infectious disease; or~~

13 ~~(d) Violating any provision of sections 71-4701 to~~  
 14 ~~71-4719.~~

15 ~~(2) The department shall deny, revoke, suspend, or~~  
 16 ~~otherwise discipline a license in accordance with the Uniform~~  
 17 ~~Licensing Law.~~

18 Sec. 582. Section 71-4714.01, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 ~~71-4714.01~~ The department shall establish and collect  
 21 fees for credentialing activities under sections 71-4701 to 71-4719  
 22 shall be established and collected the Hearing Aid Instrument  
 23 Dispensers and Fitters Practice Act as provided in section 71-162.  
 24 sections 51 to 57 of this act.

25 Sec. 583. Section 71-1772, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1772~~ Sections ~~71-1772 to 71-1794~~ 583 to 607 of this  
3 act shall be known and may be cited as the Licensed Practical  
4 Nurse-Certified Practice Act.

5 Sec. 584. Section 71-1773, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 ~~71-1773~~ The purposes of the Licensed Practical  
8 Nurse-Certified Practice Act are (1) to provide a means by  
9 which licensed practical nurses-certified may perform certain  
10 activities related to intravenous therapy, (2) to provide for  
11 approval of certification courses to prepare licensed practical  
12 nurses-certified, and (3) to ensure the health and safety of the  
13 general public.

14 Sec. 585. For purposes of the Licensed Practical  
15 Nurse-Certified Practice Act and elsewhere in the Uniform  
16 Credentialing Act, unless the context otherwise requires, the  
17 definitions found in sections 586 to 594 of this act apply.

18 Sec. 586. Administration includes observing, initiating,  
19 monitoring, discontinuing, maintaining, regulating, adjusting,  
20 documenting, assessing, planning, intervening, and evaluating.

21 Sec. 587. Approved certification course means a  
22 course for the education and training of a licensed practical  
23 nurse-certified which the board has approved.

24 Sec. 588. Board means the Board of Nursing.

25 Sec. 589. Direct supervision means that the responsible

1 licensed practitioner or registered nurse is physically present in  
2 the clinical area and is available to assess, evaluate, and respond  
3 immediately.

4           Sec. 590. Initial venipuncture means the initiation  
5 of intravenous therapy based on a new order from a licensed  
6 practitioner for an individual for whom a previous order for  
7 intravenous therapy was not in effect.

8           Sec. 591. Intravenous therapy means the therapeutic  
9 infusion or injection of substances through the venous system.

10           Sec. 592. Licensed practical nurse-certified means a  
11 licensed practical nurse who meets the standards established  
12 pursuant to section 597 of this act and who holds a valid  
13 license issued by the department pursuant to the Licensed Practical  
14 Nurse-Certified Practice Act.

15           Sec. 593. Licensed practitioner means any person  
16 authorized by state law to prescribe intravenous therapy.

17           Sec. 594. Pediatric patient means a patient who is both  
18 younger than eighteen years old and under the weight of thirty-five  
19 kilograms.

20           Sec. 595. Section 71-1776, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           ~~71-1776~~ A licensed practical nurse-certified may perform  
23 the following activities related to the administration of  
24 intravenous therapy under the direction of a licensed practitioner  
25 or registered nurse:

1           (1) Calculate the rate of intravenous fluid infusions,  
2 except for pediatric patients;

3           (2) Perform venipuncture, excluding jugular, for purposes  
4 of peripheral intravenous therapy, except (a) for pediatric  
5 patients or (b) with devices which exceed three inches in length.  
6 Direct supervision by a licensed practitioner or registered  
7 nurse shall be required for initial venipuncture for purposes of  
8 peripheral intravenous therapy;

9           (3) Except in the case of a pediatric patient, administer  
10 approved medications by approved methods. Approved methods of  
11 administration and approved medications shall be those for which  
12 nursing interventions are routine and predictable in nature related  
13 to individual responses and adverse reactions and as defined in  
14 rules and regulations of the board;

15           (4) Flush intravenous ports with heparin solution or  
16 saline solution; and

17           (5) Add pain medication solutions to a patient-controlled  
18 infusion pump.

19           Sec. 596. Section 71-1789, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           ~~71-1789~~ The Licensed Practical Nurse-Certified Practice  
22 Act shall not prohibit the performance of the activities identified  
23 in section ~~71-1776~~ 595 of this act by an ~~uncertified~~ unlicensed  
24 person if performed (1) in an emergency situation, (2) by a  
25 legally qualified person from another state employed by the federal

1 government and performing official duties in this state, or (3) by  
 2 a person enrolled in an approved certification course if performed  
 3 as part of that approved certification course.

4 Sec. 597. Section 71-1777, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 ~~71-1777~~ (1) In order to obtain a ~~certificate~~ license as  
 7 a licensed practical nurse-certified, an individual shall: ~~meet the~~  
 8 ~~following requirements:~~

9 ~~(1)~~ (a) Have a current license to practice as a licensed  
 10 practical nurse in Nebraska;

11 ~~(2)~~ (b) Have successfully completed an approved  
 12 certification course within one year before application for  
 13 ~~certification;~~ licensure; and

14 ~~(3)~~ (c) Have satisfactorily passed an examination  
 15 approved by the board.

16 (2) There is no minimum age requirement for licensure as  
 17 a licensed practical nurse-certified. +

18 ~~(4) Have filed an application with the department; and~~

19 ~~(5) Have paid the required fee.~~

20 (3) An individual holding a certificate as a licensed  
 21 practical nurse-certified on December 1, 2008, shall be deemed  
 22 to be holding a license under this section on such date. The  
 23 certificate holder may continue to practice under such certificate  
 24 as a license until the next renewal date.

25 Sec. 598. Section 71-1778, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1778 Except as otherwise provided in this section,~~  
3 ~~a certificate~~ A license to practice as a licensed practical  
4 nurse-certified shall be ~~issued by the department to be valid for~~  
5 ~~two years.~~ An initial certificate renewed biennially and shall  
6 expire at the same time on the same date as the applicant's  
7 Nebraska license to practice as a licensed practical nurse. The  
8 ~~application for the license shall include the applicant's social~~  
9 ~~security number.~~

10 Sec. 599. Section 71-1779, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 ~~71-1779 Certificates for licensed practical~~  
13 ~~nurses-certified shall be renewed as provided for licenses for~~  
14 ~~licensed practical nurses in section 71-1,132.20. To obtain renewal~~  
15 ~~of a certificate,~~ Continuing competency activities for renewal  
16 of a license to practice as a licensed practical nurse-certified  
17 shall complete continuing competency activities as required by  
18 the board under section 71-1788 and provide documentation of  
19 such activities as provided in section 71-161.10. Such continuing  
20 competency activities shall relate to intravenous therapy and may  
21 be included in the continuing competency activities required under  
22 the Nurse Practice Act for renewal of a license as a licensed  
23 practical nurse.

24 Sec. 600. Section 71-1792, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~71-1792~~ ~~When a certificate~~ To restore a license to  
2 practice as a licensed practical nurse-certified ~~lapses,~~ ~~the right~~  
3 ~~of the individual to represent himself or herself as a certificate~~  
4 ~~holder and to practice the activities for which a certificate~~  
5 ~~is required shall terminate.~~ To restore the certificate after it  
6 expires, such individual shall be required to meet the requirements  
7 for ~~certification~~ licensure which are in effect at the time that he  
8 or she wishes to restore the ~~certificate,~~ license.

9           Sec. 601. The department shall establish and collect  
10 fees for credentialing under the Licensed Practical Nurse-Certified  
11 Practice Act as provided in sections 51 to 57 of this act.

12           Sec. 602. Section 71-1790, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~71-1790~~ An individual ~~certified~~ licensed to practice as  
15 a licensed practical nurse-certified may use the title licensed  
16 practical nurse-certified and the abbreviation L.P.N.-C.

17           Sec. 603. Section 71-1775, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-1775~~ (1) Administration of intravenous therapy shall  
20 be a responsibility of the registered nurse as ordered by a  
21 licensed practitioner.

22           (2) A licensed practical nurse-certified may, under the  
23 direction of a licensed practitioner or registered nurse, perform  
24 the activities identified in section ~~71-1776~~ 595 of this act after  
25 the licensed practitioner or registered nurse has performed a

1 physical assessment of the patient.

2 (3) A licensed practical nurse-certified shall perform  
3 appropriate activities associated with central venous lines  
4 only under direct supervision. Activities associated with  
5 central venous lines that are appropriate for the licensed  
6 practical nurse-certified to perform shall be defined in rules  
7 and regulations. A licensed practitioner or registered nurse  
8 shall provide direct supervision whenever a licensed practical  
9 nurse-certified is performing activities associated with central  
10 venous lines.

11 (4) A licensed practitioner or registered nurse need  
12 not be on the premises in order for the licensed practical  
13 nurse-certified to perform directed activities except for (a)  
14 initial venipuncture for purposes of peripheral intravenous therapy  
15 and (b) central-line activities.

16 (5) A licensed practitioner or registered nurse shall be  
17 present at least once during each twenty-four-hour interval and  
18 more frequently when a significant change in therapy or client  
19 condition has occurred to assess the client when the licensed  
20 practical nurse-certified is performing the activities identified  
21 in section ~~71-1776~~. 595 of this act.

22 Sec. 604. Section 71-1780, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 ~~71-1780~~ (1) The board shall adopt and promulgate rules  
25 and regulations defining competencies required for enrollment in an



1 approved certification course and acceptable means for measuring  
2 the competencies. Before enrolling in a course, a licensed  
3 practical nurse shall successfully demonstrate the prerequisite  
4 competencies.

5 (2) The department with the advice of the board  
6 shall prescribe a curriculum for training licensed practical  
7 nurses-certified, establish an examination, and adopt and  
8 promulgate rules and regulations setting minimum standards for  
9 approved certification courses, including faculty qualifications,  
10 record keeping, faculty-to-student ratios, and other aspects of  
11 conducting such courses. The department may approve certification  
12 courses developed by associations, educational institutions, or  
13 other entities if such courses meet the requirements of this  
14 section and the criteria prescribed in the rules and regulations.

15 (3) An approved certification course shall be no less  
16 than forty-eight hours of classroom instruction and shall include a  
17 clinical competency component as defined in rules and regulations  
18 of the board. Classroom instruction shall include the following:

19 (a) State laws governing the administration of intravenous  
20 therapy; (b) anatomy and physiology of the circulatory system; (c)  
21 pharmacology; (d) fluid and electrolyte balance; (e) procedures  
22 and precautions in performing intravenous therapy; (f) types of  
23 equipment for intravenous therapy; (g) actions, interactions, and  
24 effects of medications in intravenous therapy; (h) documentation;  
25 and (i) other subjects relevant to the administration of

1 intravenous therapy. An approved certification course shall be  
2 supervised by a registered nurse with a minimum of three years of  
3 clinical experience immediately prior to supervision of the course.  
4 An educator may be a physician, pharmacist, or other qualified  
5 professional. Nothing in this section shall be deemed to prohibit  
6 any courses from exceeding the minimum requirements.

7           Sec. 605. Section 71-1781, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           ~~71-1781~~ (1) An applicant for approval to conduct a  
10 certification course shall file an application and shall present  
11 proof satisfactory to the department that the proposed course meets  
12 the requirements of the Licensed Practical Nurse-Certified Practice  
13 Act and the rules and regulations adopted and promulgated under the  
14 act.

15           (2) The department may conduct such inspections  
16 or investigations of applicants for approval to conduct a  
17 certification course and of approved certification courses as may  
18 be necessary to ensure compliance with the act and the rules and  
19 regulations.

20           Sec. 606. Section 71-1783, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           ~~71-1783~~ The department may deny, revoke, or suspend  
23 or otherwise take disciplinary measures against an approved  
24 certification course in accordance with section ~~71-155~~ 96 of  
25 this act for violation of the Licensed Practical Nurse-Certified

1 Practice Act or the rules and regulations adopted and promulgated  
2 under the act.

3 Sec. 607. Section 71-1785, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-1785~~ A course provider whose approval to conduct a  
6 certification course has been suspended or revoked may apply for  
7 reinstatement at such time as the certification course meets the  
8 requirements of the Licensed Practical Nurse-Certified Practice Act  
9 and rules and regulations adopted and promulgated under the act and  
10 will continue to meet such requirements.

11 Sec. 608. Sections 608 to 622 of this act shall be known  
12 and may be cited as the Massage Therapy Practice Act.

13 Sec. 609. Section 71-1,278, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~71-1,278~~ (1) For purposes of sections ~~71-1,278 to~~  
16 ~~71-1,282,~~ the Massage Therapy Practice Act and elsewhere in the  
17 Uniform Credentialing Act, unless the context otherwise requires,  
18 the definitions found in sections 610 to 614 of this act apply. ÷

19 ~~(a) An approved massage therapy school shall be (i) one~~  
20 ~~which is approved by the department upon the recommendation of the~~  
21 ~~Board of Massage Therapy,~~ ~~(ii) one which requires for admission a~~  
22 ~~diploma from an accredited high school or its equivalent,~~ ~~(iii) one~~  
23 ~~which has attached to its staff a regularly licensed physician and~~  
24 ~~employs one or more competent massage therapists as instructors,~~  
25 ~~and (iv) one which has a minimum requirement of a continuous~~

1 course of study and training of not less than one thousand hours  
2 distributed over a term of not less than nine months. Such study  
3 and training shall consist of one hundred hours of each of the  
4 following: Physiology, anatomy, massage, pathology, hydrotherapy,  
5 hygiene and practical demonstration, and health service management.  
6 The remaining three hundred hours shall be obtained in subject  
7 areas related to the clinical practice of massage therapy.

8 (b) Massage therapist shall mean a person licensed to  
9 practice massage therapy.

10 (c) Massage therapy shall mean the physical, mechanical,  
11 or electrical manipulation of soft tissue for the therapeutic  
12 purposes of enhancing muscle relaxation, reducing stress, improving  
13 circulation, or instilling a greater sense of well-being and  
14 may include the use of oil, salt glows, heat lamps, and  
15 hydrotherapy. Massage therapy shall not include diagnosis or  
16 treatment or use of procedures for which a license to practice  
17 medicine or surgery, chiropractic, or podiatry is required nor  
18 the use of microwave diathermy, shortwave diathermy, ultrasound,  
19 transcutaneous electrical nerve stimulation, electrical stimulation  
20 of over thirty-five volts, neurological hyperstimulation, or spinal  
21 and joint adjustments; and

22 (d) Massage therapy establishment shall mean any duly  
23 licensed place in which a massage therapist practices his or her  
24 profession of massage therapy.

25 (2) The department shall adopt and promulgate rules

1 and regulations as it may deem necessary with reference to the  
2 conditions under which the practice of massage therapy shall be  
3 carried on and the precautions necessary to be employed to prevent  
4 the spread of infectious and contagious diseases. The department  
5 shall have the power to enforce sections 71-1,278 to 71-1,282 and  
6 all necessary inspections in connection therewith.

7           Sec. 610. Approved massage therapy school means (1)  
8 one which is approved by the board, (2) one which requires  
9 for admission a diploma from an accredited high school or its  
10 equivalent, (3) one which has attached to its staff a regularly  
11 licensed physician and employs one or more competent massage  
12 therapists as instructors, and (4) one which has a minimum  
13 requirement of a continuous course of study and training of  
14 not less than one thousand hours distributed over a term of not  
15 less than nine months. Such study and training shall consist  
16 of one hundred hours of each of the following: Physiology;  
17 anatomy; massage; pathology; hydrotherapy; hygiene and practical  
18 demonstration; and health service management. The remaining three  
19 hundred hours shall be obtained in subject areas related to the  
20 clinical practice of massage therapy.

21           Sec. 611. Board means the Board of Massage Therapy.

22           Sec. 612. Massage therapist means a person licensed to  
23 practice massage therapy.

24           Sec. 613. Massage therapy means the physical, mechanical,  
25 or electrical manipulation of soft tissue for the therapeutic

1 purposes of enhancing muscle relaxation, reducing stress, improving  
2 circulation, or instilling a greater sense of well-being and  
3 may include the use of oil, salt glows, heat lamps, and  
4 hydrotherapy. Massage therapy does not include diagnosis or  
5 treatment or use of procedures for which a license to practice  
6 medicine or surgery, chiropractic, or podiatry is required nor  
7 the use of microwave diathermy, shortwave diathermy, ultrasound,  
8 transcutaneous electrical nerve stimulation, electrical stimulation  
9 of over thirty-five volts, neurological hyperstimulation, or spinal  
10 and joint adjustments.

11           Sec. 614. Massage therapy establishment means any duly  
12 licensed place in which a massage therapist practices his or her  
13 profession of massage therapy.

14           Sec. 615. Section 71-1,279, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           ~~71-1,279~~ ~~Section 71-1,278~~ The Massage Therapy Practice  
17 Act shall not be construed to include the following classes of  
18 persons:

19           (1) Licensed physicians and surgeons, osteopathic  
20 physicians, chiropractors, registered nurses, practical nurses,  
21 cosmetologists, ~~chiropractors,~~ estheticians, nail technicians,  
22 physical therapists, and barbers, and other persons credentialed  
23 under the Uniform Credentialing Act who are exclusively engaged in  
24 the practice of their respective professions;

25           (2) ~~physicians of~~ Physicians who serve in the armed

1 forces of the United States or the United States Army, Navy, or  
2 Public Health Service when acting in the line of duty in this  
3 state, and or who are employed by the United States Department of  
4 Veterans Affairs or other federal agencies, if their practice is  
5 limited to that service or employment;

6 (3) ~~students~~ Students performing massage therapy services  
7 when they render such services within the scope of an approved  
8 massage therapy school under the supervision of a licensed massage  
9 therapist; and

10 (4) Individuals who hold a current license as a massage  
11 therapist in another state and who travel with and provide massage  
12 therapy services to theatrical groups, entertainers, or athletic  
13 organizations.

14 Sec. 616. Section 71-1,280, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 ~~71-1,280~~ (1) No person shall engage in the practice  
17 of massage therapy or the operation of a massage therapy school  
18 or establishment unless he or she obtains a license from the  
19 department for that purpose.

20 (2) ~~In November of each odd-numbered year, all license~~  
21 ~~holders shall apply for renewal of such license pursuant to the~~  
22 ~~Uniform Licensing Law.~~

23 (3) ~~Each Nebraska-licensed massage therapist in active~~  
24 ~~practice within the State of Nebraska shall, on or before November~~  
25 ~~1 of each odd-numbered year, complete continuing competency~~

1 activities as required by the board pursuant to section 71-161.09  
 2 as a prerequisite for the licensee's next subsequent license  
 3 renewal.

4 Sec. 617. Section 71-1,281, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 ~~71-1,281~~ Every applicant for an initial license to  
 7 practice massage therapy shall (1) present satisfactory evidence  
 8 that he or she is a resident of this state and has attained the  
 9 age of nineteen years; and is of good moral character, (2) present  
 10 proof of graduation from an approved massage therapy school, and  
 11 (3) pass an examination prescribed by the Board of Massage Therapy-  
 12 board.

13 Sec. 618. Section 71-1,281.01, Reissue Revised Statutes  
 14 of Nebraska, is amended to read:

15 ~~71-1,281.01~~ A temporary license to practice massage  
 16 therapy may be granted to any person who meets all the requirements  
 17 for a license except passage of the licensure examination required  
 18 by section ~~71-1,281.~~ 617 of this act. A temporary licensee shall be  
 19 supervised in his or her practice by a licensed massage therapist.  
 20 A temporary license shall be valid only until the results of  
 21 the next examination are available to the department. for sixty  
 22 days or until the temporary licensee takes the examination,  
 23 whichever occurs first. In the event a temporary licensee fails  
 24 the examination required by such section, the temporary license  
 25 shall be ~~revoeked,~~ null and void, except that the department, with



1 the upon recommendation of the ~~Board of Massage Therapy board,~~  
2 may extend the temporary license upon a showing of good cause why  
3 such license should be extended. A temporary license may not be  
4 extended beyond ~~one year,~~ six months. A temporary license shall not  
5 be issued to any person failing the examination if such person did  
6 not hold a valid temporary license prior to his or her failure to  
7 pass the examination.

8           The department shall have the power to deny or revoke a  
9 temporary license to practice massage therapy upon the grounds and  
10 in accordance with the Uniform Licensing Law.

11           Sec. 619. The department, with the recommendation of  
12 the board, may issue a license based on licensure in another  
13 jurisdiction to an individual who meets the requirements of  
14 the Massage Therapy Practice Act or substantially equivalent  
15 requirements as determined by the department, with the  
16 recommendation of the board.

17           Sec. 620. The department shall establish and collect  
18 fees for credentialing under the Massage Therapy Practice Act as  
19 provided in sections 51 to 57 of this act.

20           Sec. 621. For purposes of the Massage Therapy Practice  
21 Act, unprofessional conduct includes the conduct listed in section  
22 79 of this act and the provision by a massage therapist of sexual  
23 stimulation as part of massage therapy.

24           Sec. 622. The department shall adopt and promulgate rules  
25 and regulations as it may deem necessary with reference to the

1 conditions under which the practice of massage therapy shall be  
2 carried on and the precautions necessary to be employed to prevent  
3 the spread of infectious and contagious diseases. The department  
4 shall have the power to enforce the Massage Therapy Practice Act  
5 and all necessary inspections in connection therewith.

6           Sec. 623. Sections 623 to 638 of this act shall be known  
7 and may be cited as the Medical Nutrition Therapy Practice Act.

8           Sec. 624. Section 71-1,285, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           ~~71-1,285~~ (1) The Legislature finds that:

11           (a) The unregulated practice of medical nutrition therapy  
12 can clearly harm or endanger the health, safety, and welfare of the  
13 public;

14           (b) The public can reasonably be expected to benefit from  
15 an assurance of initial and continuing professional ability; and

16           (c) The public cannot be effectively protected by a  
17 less cost-effective means than state regulation of the practice of  
18 medical nutrition therapy. The Legislature also finds that medical  
19 nutrition therapists must exercise independent judgment and that  
20 professional education, training, and experience are required to  
21 make such judgment.

22           (2) The Legislature further finds that the practice  
23 of medical nutrition therapy in the State of Nebraska is not  
24 sufficiently regulated for the protection of the health, safety,  
25 and welfare of the public. It declares that this is a matter

1 of statewide concern and it shall be the policy of the State of  
2 Nebraska to promote high standards of professional performance by  
3 those persons representing themselves as licensed medical nutrition  
4 therapists.

5 Sec. 625. Section 71-1,286, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 ~~71-1,286 As used in sections 71-1,285 to 71-1,294,~~  
8 For purposes of the Medical Nutrition Therapy Practice Act and  
9 elsewhere in the Uniform Credentialing Act, unless the context  
10 otherwise requires, the definitions found in sections 626 to 632 of  
11 this act apply. +

12 ~~(1) Assessment means the process of evaluating the~~  
13 ~~nutritional status of patients. The assessment includes review~~  
14 ~~and analysis of medical and diet histories, biochemical lab values,~~  
15 ~~and anthropometric measurements to determine nutritional status and~~  
16 ~~appropriate nutritional treatment;~~

17 ~~(2) Board means the Board of Medical Nutrition Therapy;~~

18 ~~(3) Consultation means conferring with a physician~~  
19 ~~regarding the activities of the licensed medical nutrition~~  
20 ~~therapist;~~

21 ~~(4) General nutrition services includes, but is not~~  
22 ~~limited to:~~

23 ~~(a) Identifying the nutritional needs of individuals and~~  
24 ~~groups in relation to normal nutritional requirements; and~~

25 ~~(b) Planning, implementing, and evaluating nutrition~~

1 education programs for individuals and groups in the selection  
2 of food to meet normal nutritional needs throughout the life cycle;

3 ~~(5) Licensed medical nutrition therapist means a person~~  
4 ~~who is licensed to practice medical nutrition therapy pursuant to~~  
5 ~~the Uniform Licensing Law and who holds a current license issued by~~  
6 ~~the department pursuant to section 71-1,290;~~

7 ~~(6) Medical nutrition therapy means the assessment of~~  
8 ~~the nutritional status of patients. It involves the assessment of~~  
9 ~~patient nutritional status followed by treatment, ranging from diet~~  
10 ~~modification to specialized nutrition support, such as determining~~  
11 ~~nutrient needs for enteral and parenteral nutrition, and monitoring~~  
12 ~~to evaluate patient response to such treatment; and~~

13 ~~(7) Patient means a person with a disease, illness,~~  
14 ~~injury, or medical condition for which nutritional interventions~~  
15 ~~are an essential component of standard care.~~

16 Sec. 626. Assessment means the process of evaluating the  
17 nutritional status of patients. The assessment includes review and  
18 analysis of medical and diet histories, biochemical lab values,  
19 and anthropometric measurements to determine nutritional status and  
20 appropriate nutritional treatment.

21 Sec. 627. Board means the Board of Medical Nutrition  
22 Therapy.

23 Sec. 628. Consultation means conferring with a physician  
24 regarding the activities of the licensed medical nutrition  
25 therapist.

1           Sec. 629. General nutrition services includes, but is not  
2 limited to:

3           (1) Identifying the nutritional needs of individuals and  
4 groups in relation to normal nutritional requirements; and

5           (2) Planning, implementing, and evaluating nutrition  
6 education programs for individuals and groups in the selection  
7 of food to meet normal nutritional needs throughout the life cycle.

8           Sec. 630. Licensed medical nutrition therapist means  
9 a person who is licensed to practice medical nutrition therapy  
10 pursuant to the Uniform Credentialing Act and who holds a current  
11 license issued by the department pursuant to the Medical Nutrition  
12 Therapy Practice Act.

13           Sec. 631. Medical nutrition therapy means the assessment  
14 of the nutritional status of patients. Medical nutrition therapy  
15 involves the assessment of patient nutritional status followed by  
16 treatment, ranging from diet modification to specialized nutrition  
17 support, such as determining nutrient needs for enteral and  
18 parenteral nutrition, and monitoring to evaluate patient response  
19 to such treatment.

20           Sec. 632. Patient means a person with a disease, illness,  
21 injury, or medical condition for which nutritional interventions  
22 are an essential component of standard care.

23           Sec. 633. The board shall consist of three professional  
24 members, one physician, 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.

2           Sec. 634. Section 71-1,287, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~71-1,287 After September 1, 1996, no~~ No person shall  
5 practice medical nutrition therapy unless he or she is licensed for  
6 such purpose pursuant to the Uniform ~~Licensing Law~~, Credentialing  
7 Act. The practice of medical nutrition therapy shall not include:

8           (1) Any person ~~licensed or certified~~ credentialed in this  
9 state pursuant to ~~Chapter 71~~ the Uniform Credentialing Act and  
10 engaging in such profession or occupation for which he or she is  
11 ~~licensed or certified~~; credentialed;

12           (2) Any student engaged in an academic program under the  
13 supervision of a licensed medical nutrition therapist as part of a  
14 major course of study in human nutrition, food and nutrition, or  
15 dietetics, or an equivalent major course of study approved by the  
16 board, and who is designated with a title which clearly indicates  
17 the person's status as a student or trainee;

18           (3) Persons practicing medical nutrition therapy who  
19 serve in the ~~Armed Forces~~ armed forces of the United States or  
20 the United States Public Health Service, or who are employed  
21 by the United States Department of Veterans Affairs or other  
22 federal agencies, if their practice is limited to that service or  
23 employment;

24           (4) Persons practicing medical nutrition therapy who are  
25 licensed in another state, United States possession, or country,

1 or have received at least a baccalaureate degree, and are in this  
2 state for the purpose of:

3 (a) Consultation if the practice in this state is limited  
4 to consultation; or

5 (b) Conducting a teaching clinical demonstration in  
6 connection with a program of basic clinical education, graduate  
7 education, or postgraduate education which is sponsored by a  
8 dietetic education program or a major course of study in human  
9 nutrition, food and nutrition, or dietetics, or an equivalent major  
10 course of study approved by the board;

11 (5) Persons performing general nutrition services  
12 incidental to the practice of the profession insofar as it does not  
13 exceed the scope of their education and training;

14 (6) Persons who market or distribute food, food  
15 materials, or dietary supplements, including persons employed in  
16 health food stores, or persons engaged in the advising of the use  
17 of those products, or the preparation of those products, or the  
18 counseling of individuals or groups in the selection of products  
19 to meet general nutrition needs;

20 (7) Persons conducting classes or disseminating  
21 information related to general nutrition services;

22 (8) Persons who care for the sick in accordance with  
23 the tenets and practices of any bona fide church or religious  
24 denomination;

25 (9) Persons who provide information and instructions

1 regarding food intake or exercise as a part of a weight control  
2 program; and

3 (10) Persons with advanced postgraduate degrees involved  
4 in academic teaching or research.

5 Sec. 635. Section 71-1,289, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 ~~71-1,289~~ A person shall be qualified to be a licensed  
8 medical nutrition therapist if such person furnishes evidence that  
9 he or she:

10 (1) Has met the requirements for and is a registered  
11 dietitian by the American Dietetic Association or an equivalent  
12 entity recognized by the board;

13 (2) (a) Has satisfactorily passed an examination approved  
14 by the board;

15 (b) Has received a baccalaureate degree from an  
16 accredited college or university with a major course of study in  
17 human nutrition, food and nutrition, dietetics, or an equivalent  
18 major course of study approved by the board; and

19 (c) Has satisfactorily completed a program of supervised  
20 clinical experience approved by the department. Such clinical  
21 experience shall consist of not less than nine hundred hours  
22 of a planned continuous experience in human nutrition, food and  
23 nutrition, or dietetics under the supervision of an individual  
24 meeting the qualifications of this section; or

25 (3) (a) Has satisfactorily passed an examination approved



1 by the board; and

2 (b) (i) Has received a master's or doctorate degree from  
3 an accredited college or university in human nutrition, nutrition  
4 education, food and nutrition, or public health nutrition or in an  
5 equivalent major course of study approved by the board; or

6 (ii) Has received a master's or doctorate degree from an  
7 accredited college or university which includes a major course of  
8 study in clinical nutrition. Such course of study shall consist  
9 of not less than a combined two hundred hours of biochemistry and  
10 physiology and not less than seventy-five hours in human nutrition.

11 For purposes of this section, accredited college or  
12 university means an institution currently listed with the United  
13 States Secretary of Education as accredited. Applicants who  
14 have obtained their education outside of the United States and  
15 its territories shall have their academic degrees validated as  
16 equivalent to a baccalaureate or master's degree conferred by a  
17 United States regionally accredited college or university.

18 The practice of medical nutrition therapy shall be  
19 performed under the consultation of a physician licensed pursuant  
20 to ~~section 71-1,104~~ 684 of this act or ~~sections 71-1,137 to~~  
21 ~~71-1,141.~~ 687 to 691 of this act.

22 Sec. 636. The department, with the recommendation of  
23 the board, may issue a license based on licensure in another  
24 jurisdiction to an individual who meets the requirements of  
25 the Medical Nutrition Therapy Practice Act or substantially

1 equivalent requirements as determined by the department, with the  
2 recommendation of the board.

3           Sec. 637. The department shall establish and collect fees  
4 for credentialing under the Medical Nutrition Therapy Practice Act  
5 as provided in sections 51 to 57 of this act.

6           Sec. 638. Section 71-1,293, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~71-1,293 (1) Nothing in sections 71-1,285 to 71-1,294~~  
9 the Medical Nutrition Therapy Practice Act shall be construed  
10 to permit a licensed medical nutrition therapist to practice any  
11 other profession regulated under the Nebraska Cosmetology Act, the  
12 Occupational Therapy Practice Act, or Chapter 71, article 1, 37, or  
13 47. Uniform Credentialing Act.

14           ~~(2) Any person who represents himself or herself as a~~  
15 licensed medical nutrition therapist without first being licensed  
16 pursuant to the Uniform Licensing Law shall be guilty of a Class IV  
17 misdemeanor.

18           Sec. 639. Sections 639 to 658 of this act shall be known  
19 and may be cited as the Medical Radiography Practice Act.

20           Sec. 640. For purposes of the Medical Radiography  
21 Practice Act and elsewhere in the Uniform Credentialing Act, unless  
22 the context otherwise requires, the definitions found in sections  
23 641 to 651 of this act apply.

24           Sec. 641. Board means the Board of Medical Radiography.

25           Sec. 642. Interpretative fluoroscopic procedures means

1 the use of radiation in continuous mode to provide information,  
2 data, and film or hardcopy images for diagnostic review and  
3 interpretation by a licensed practitioner as the images are being  
4 produced.

5           Sec. 643. Licensed practitioner means a person  
6 licensed to practice medicine, dentistry, podiatry, chiropractic,  
7 osteopathic medicine and surgery, or as an osteopathic physician.

8           Sec. 644. Limited radiographer means a person licensed  
9 to practice medical radiography pursuant to section 654 of this  
10 act. Limited radiographer does not include a person certified under  
11 section 1034 of this act.

12           Sec. 645. Medical radiographer means a person licensed to  
13 practice medical radiography pursuant to section 653 of this act.

14           Sec. 646. Medical radiography means the application of  
15 radiation to humans for diagnostic purposes, including, but not  
16 limited to, adjustment or manipulation of X-ray systems and  
17 accessories including image receptors, positioning of patients,  
18 processing of films, and any other action that materially affects  
19 the radiation dose to patients.

20           Sec. 647. Radiation means ionizing radiation and  
21 nonionizing radiation as follows:

22           (1) Ionizing radiation means gamma rays, X-rays, alpha  
23 and beta particles, high-speed electrons, neutrons, protons, and  
24 other atomic or nuclear particles or rays but does not include  
25 sound or radio waves or visible, infrared, or ultraviolet light;

1 and

2 (2) Nonionizing radiation means (a) any electromagnetic  
3 radiation which can be generated during the operation of electronic  
4 products as defined in section 71-3503 to such energy density  
5 levels as to present a biological hazard to occupational and  
6 public health and safety and the environment, other than ionizing  
7 electromagnetic radiation, and (b) any sonic, ultrasonic, or  
8 infrasonic waves which are emitted from an electronic product  
9 as defined in section 71-3503 as a result of the operation of  
10 an electronic circuit in such product and to such energy density  
11 levels as to present a biological hazard to occupational and public  
12 health and safety and the environment.

13 Sec. 648. Radiation-generating equipment means any  
14 manufactured product or device, component part of such a product or  
15 device, or machine or system which during operation can generate  
16 or emit radiation except devices which emit radiation only from  
17 radioactive material.

18 Sec. 649. Sources of radiation means any radioactive  
19 material, any radiation-generating equipment, or any device or  
20 equipment emitting or capable of emitting radiation or radioactive  
21 material.

22 Sec. 650. Undesirable radiation means radiation in such  
23 quantity and under such circumstances as determined from time  
24 to time by rules and regulations adopted and promulgated by the  
25 department.

1           Sec. 651. X-ray system means an assemblage of components  
2 for the controlled production of X-rays, including, but not  
3 limited to, an X-ray high-voltage generator, an X-ray control,  
4 a tube housing assembly, a beam-limiting device, and the necessary  
5 supporting structures. Additional components which function with  
6 the system are considered integral parts of the system.

7           Sec. 652. Section 71-3512, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           ~~71-3512 (1) The Medical Radiographer Advisory Committee~~  
10 ~~is created. The advisory committee~~ The board shall consist of  
11 ~~the head of the division of the department responsible for~~  
12 ~~credentialing, who shall chair the meetings of the advisory~~  
13 ~~committee, and four medical radiographers~~ and one limited  
14 radiographer. licensed by the department and appointed by the State  
15 ~~Board of Health. Of the first four medical radiographers appointed,~~  
16 ~~two~~ one shall be appointed for a term of one year, one shall be  
17 appointed for ~~terms~~ a term of two years, one shall be appointed  
18 for a term of three years, and one ~~and two~~ shall be appointed for  
19 ~~terms~~ a term of four years. The first limited radiographer shall  
20 be appointed for a term of five years. Thereafter each appointment  
21 shall be for a term of ~~four~~ five years. The advisory committee  
22 board shall meet at the call of the chairperson but not less than  
23 least two times per calendar year. The members shall serve without  
24 compensation for such service other than reimbursement for the  
25 actual and necessary expenses of attending the meetings of the

1 ~~advisory committee as provided in sections 81-1174 to 81-1177.~~

2 ~~(2) The advisory committee shall advise the department~~  
3 ~~on all matters pertaining to the licensure and regulation of~~  
4 ~~medical radiographers, including, but not limited to, the practice~~  
5 ~~of medical radiography, the assurance of continuing competency,~~  
6 ~~and the disciplining of medical radiographers found to have~~  
7 ~~violated rules and regulations relating to the practice of medical~~  
8 ~~radiography adopted and promulgated pursuant to the Radiation~~  
9 ~~Control Act.~~

10 Sec. 653. Section 71-3515.01, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 ~~71-3515.01~~ (1) A person licensed by the department, with  
13 the recommendation of the board, as a medical radiographer may  
14 practice medical radiography on any part of the human anatomy  
15 for interpretation by and under the direction of a licensed  
16 practitioner, excluding interpretative fluoroscopic procedures.  
17 ~~Such person~~ An applicant for a license as a medical radiographer  
18 shall:

19 (a) ~~Prior to issuance of a license as a medical~~  
20 ~~radiographer, (i) complete~~ Complete an educational program in  
21 radiography incorporating the course material as provided in the  
22 rules and regulations of the department approved by the board  
23 pursuant to subsection (1) of section 71-3515.02 and ~~(ii) complete~~  
24 656 of this act;

25 (b) Complete an application which includes such person's

1 ~~social security number and successfully in accordance with the~~  
2 ~~Uniform Credentialing Act; and~~

3 (c) Successfully complete an examination approved by the  
4 board. department on the course material. Presentation of proof  
5 of registration in radiography with the American Registry of  
6 Radiologic Technologists is proof of meeting the requirements of  
7 this subdivision (a) of this subsection; and

8 ~~(b) Prior to renewal of licensure as a medical~~  
9 ~~radiographer, have an average of twelve units of continuing~~  
10 ~~education per year as approved by the department or complete~~  
11 ~~continuing competency activities as required by the department~~  
12 ~~pursuant to section 71-3507.~~

13 (2) Presentation of proof of current registration in  
14 radiography with the American Registry of Radiologic Technologists  
15 is proof of meeting the requirements of subdivisions (a) (1) (a) and  
16 (b) of this subsection. (c) of this section.

17 ~~(2) A person licensed by the department as a limited~~  
18 ~~radiographer may practice medical radiography on limited regions~~  
19 ~~of the human anatomy, using only routine radiographic procedures,~~  
20 ~~for the interpretation by and under the direction of a licensed~~  
21 ~~practitioner, excluding computed tomography, the use of contrast~~  
22 ~~media, and the use of fluoroscopic or mammographic equipment. Such~~  
23 ~~person shall:~~

24 ~~(a) Prior to issuance of a license as a limited~~  
25 ~~radiographer, complete an application which includes the~~

1 applicant's social security number and successfully complete  
2 an examination approved by the department, as described in  
3 subdivision (2)(a) of section 71-3515.02 and at least one of the  
4 anatomical regions listed in subdivision (2)(b) of such section or  
5 successfully complete an examination approved by the department,  
6 as described in subsection (3) of section 71-3515.02. The license  
7 issued shall be specific to the anatomical region or regions for  
8 which the applicant has passed an approved examination, except  
9 that an applicant may be licensed in the anatomical region of  
10 Abdomen upon successful passage of the examinations described in  
11 subdivisions (2)(a) and (2)(b)(iv) of section 71-3515.02 and upon a  
12 finding by the department that continued provision of service for a  
13 community would be in jeopardy; and

14 (b) Prior to renewal of licensure as a limited  
15 radiographer, have an average of twelve units of continuing  
16 education per year as approved by the department or complete  
17 continuing competency activities as required by the department  
18 pursuant to section 71-3507.

19 (3) The requirements of this section do not apply to  
20 a student while enrolled and participating in an educational  
21 program in medical radiography who, as a part of an educational  
22 program, applies X-rays to humans while under the supervision  
23 of the licensed practitioners or medical radiographers associated  
24 with the educational program. Students who have completed at least  
25 twelve months of the training course described in subsection (1) of



1 ~~section 71-3515.02 may apply for licensure as a temporary medical~~  
2 ~~radiographer. Temporary medical radiographer licenses shall expire~~  
3 ~~eighteen months after issuance and shall not be renewed. Persons~~  
4 ~~licensed as temporary medical radiographers shall be permitted~~  
5 ~~to perform the duties of a limited radiographer licensed in all~~  
6 ~~anatomical regions of subdivision (2)(b) of such section and~~  
7 ~~Abdomen.~~

8           Sec. 654. (1) A person licensed by the department,  
9 with the recommendation of the board, as a limited radiographer  
10 may practice medical radiography on limited regions of the  
11 human anatomy, using only routine radiographic procedures, for  
12 the interpretation by and under the direction of a licensed  
13 practitioner, excluding computed tomography, the use of contrast  
14 media, and the use of fluoroscopic or mammographic equipment.  
15 An applicant for a license as a limited radiographer shall  
16 successfully complete an examination approved by the board, as  
17 described in subdivision (2)(a) of section 656 of this act and at  
18 least one of the anatomical regions listed in subdivision (2)(b)  
19 of such section or successfully complete an examination approved by  
20 the department, as described in subsection (3) of section 656 of  
21 this act.

22           (2) Each license issued shall be specific to the  
23 anatomical region or regions for which the applicant has passed  
24 an approved examination, except that an applicant may be licensed  
25 in the anatomical region of Abdomen upon successful passage of

1 the examinations described in subdivisions (2) (a) and (2) (b) (iv)  
2 of section 656 of this act and upon a finding by the department,  
3 with the recommendation of the board, that continued provision of  
4 service for a community would be in jeopardy.

5           Sec. 655. The requirements of sections 653 and 654  
6 of this act do not apply to a student while enrolled and  
7 participating in an educational program in medical radiography  
8 who, as a part of an educational program, applies X-rays to  
9 humans while under the supervision of the licensed practitioners  
10 or medical radiographers associated with the educational program.  
11 Students who have completed at least twelve months of the training  
12 course described in subsection (1) of section 656 of this act may  
13 apply for licensure as a temporary medical radiographer. Temporary  
14 medical radiographer licenses shall expire eighteen months after  
15 issuance and shall not be renewed. Persons licensed as temporary  
16 medical radiographers shall be permitted to perform the duties  
17 of a limited radiographer licensed in all anatomical regions of  
18 subdivision (2) (b) of section 656 of this act and Abdomen.

19           Sec. 656. Section 71-3515.02, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           ~~71-3515.02~~ (1) The educational program for medical  
22 radiographers shall consist of twenty-four months of instruction  
23 in radiography approved by the ~~department~~ board which includes,  
24 but is not limited to, radiographic procedures, imaging equipment,  
25 image production and evaluation, film processing, radiation

1 physics, radiation protection, radiation biology, radiographic  
2 pathology, and quality assurance activities. The ~~department~~ board  
3 shall recognize equivalent courses of instruction successfully  
4 completed by individuals who are applying for licensure as  
5 medical radiographers ~~by the department~~ when determining if the  
6 requirements of section ~~71-3515.01~~ 653 of this act have been met.

7 (2) The examination for limited radiographers shall  
8 include, but not be limited to:

9 (a) Radiation protection, equipment maintenance and  
10 operation, image production and evaluation, and patient care and  
11 management; and

12 (b) The anatomy of, and positioning for, specific regions  
13 of the human anatomy. The anatomical regions shall include at least  
14 one of the following:

15 (i) Chest;

16 (ii) Extremities;

17 (iii) Skull and sinus;

18 (iv) Spine; or

19 (v) Ankle and foot.

20 (3) The examination for limited radiographers in bone  
21 density shall include, but not be limited to, basic concepts  
22 of bone densitometry, equipment operation and quality control,  
23 radiation safety, and dual X-ray absorptiometry (DXA) scanning of  
24 the finger, heel, forearm, lumbar spine, and proximal femur.

25 (4) The department, with the recommendation by the board,

1 shall adopt and promulgate rules and regulations regarding the  
2 examinations required in ~~subdivisions (1)(a)(ii) and (2)(a) of~~  
3 ~~section 71-3515.01.~~ sections 653 and 654 of this act. Such  
4 rules and regulations shall provide for (a) the administration  
5 of examinations based upon national standards, such as the  
6 Examination in Radiography from the American Registry of Radiologic  
7 Technologists for medical radiographers, the Examination for the  
8 Limited Scope of Practice in Radiography or the Bone Densitometry  
9 Equipment Operator Examination from the American Registry of  
10 Radiologic Technologists for limited radiographers, or equivalent  
11 examinations that, as determined by the ~~department,~~ board, meet the  
12 standards for educational and psychological testing as recommended  
13 by the American Psychological Association, the American Educational  
14 Research Association, and the National Council on Measurement in  
15 Education, (b) procedures to be followed for examinations, (c) the  
16 method of grading and the passing grades for such examinations, (d)  
17 security protection for questions and answers, and (e) for medical  
18 radiographers, the contents of such examination based on the course  
19 requirements for medical radiographers prescribed in subsection (1)  
20 of this section. Any costs incurred in determining the extent to  
21 which examinations meet the examining standards of this subsection  
22 shall be paid by the individual or organization proposing the use  
23 of such examination.

24 ~~(5) Any person employed in medical radiography before~~  
25 ~~and on June 2, 1995, who is not otherwise licensed may apply for~~

1 a license as a provisional limited radiographer before January  
2 1, 1996. A person licensed as a provisional limited radiographer  
3 may perform the duties of a limited radiographer licensed in all  
4 anatomical regions listed in subdivision ~~(2)(b)~~ of this section  
5 and the anatomical region of Abdomen. A provisional limited  
6 radiographer shall not radiograph children under the age of  
7 six months, except (a) upon a finding by the department that  
8 continued provision of service for a community would be in  
9 jeopardy if this provision is enforced, (b) for an employee of  
10 a hospital licensed and in good standing under the Health Care  
11 Facility Licensure Act and located in a rural area as defined  
12 in section 71-5653, or (c) in a bona fide emergency situation.  
13 No examination shall be required of individuals applying for a  
14 license as a provisional limited radiographer. All provisional  
15 limited radiographer licenses expire January 1, 2005. A license  
16 as a provisional limited radiographer is subject to discipline for  
17 violations of the Radiation Control Act and rules and regulations  
18 adopted pursuant to the act, including, but not limited to,  
19 revocation for nonpayment of fees or failure to meet continuing  
20 competency requirements as required by the department pursuant to  
21 section 71-3507.

22 ~~(6)~~ (5) No applicant for a license as a limited  
23 radiographer may take the examination for licensure, or for  
24 licensure for any specific anatomical region, more than three  
25 times without first waiting a period of one year after the last

1 unsuccessful attempt of the examination and submitting proof to  
2 the department of completion of continuing competency activities as  
3 required by the department pursuant to section 71-3507 board for  
4 each subsequent attempt.

5 ~~(7) The department shall establish and collect fees as~~  
6 ~~provided in section 71-162 for the implementation of this section~~  
7 ~~and section 71-3515.01, including an examination fee, initial~~  
8 ~~and renewal fees for licenses for persons performing medical~~  
9 ~~radiography, and a fee for approval of courses of instruction.~~

10 Sec. 657. The department shall establish and collect fees  
11 for credentialing under the Medical Radiography Practice Act as  
12 provided in sections 51 to 57 of this act.

13 Sec. 658. (1) Persons authorized under the Dentistry  
14 Practice Act to practice as dental hygienists and dental assistants  
15 who meet the requirements of section 468 of this act shall not be  
16 required to be licensed under the Medical Radiography Practice Act.

17 (2) The department may exempt certain users of sources of  
18 radiation from licensing requirements established under the Medical  
19 Radiography Practice Act when the board finds that the exemption  
20 will not constitute a significant risk to occupational and public  
21 health and safety and the environment.

22 (3) Individuals who are currently licensed in the State  
23 of Nebraska as podiatrists, chiropractors, dentists, physicians  
24 and surgeons, osteopathic physicians, physician assistants, and  
25 veterinarians shall be exempt from the rules and regulations of

1 the department pertaining to the qualifications of persons for the  
2 use of X-ray radiation-generating equipment operated for diagnostic  
3 purposes.

4 Sec. 659. Sections 659 to 719 of this act shall be known  
5 and may be cited as the Medicine and Surgery Practice Act.

6 Sec. 660. Section 71-1,107.01, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8 ~~71-1,107.01~~ For the purposes of sections ~~71-1,107.01~~ to  
9 ~~71-1,107.14,~~ the Medicine and Surgery Practice Act and elsewhere  
10 in the Uniform Credentialing Act, unless the context otherwise  
11 requires, the definitions found in sections 661 to 680 of this act  
12 apply. +

13 ~~(1) Temporary educational permit shall mean a permit to~~  
14 ~~practice medicine and surgery, osteopathic medicine and surgery, or~~  
15 ~~any of their allied specialties in a supervised educational program~~  
16 ~~approved by the Board of Medicine and Surgery;~~

17 ~~(2) Graduate medical education shall mean a period of~~  
18 ~~supervised educational training by a graduate of an accredited~~  
19 ~~school or college of medicine or an accredited school or college~~  
20 ~~of osteopathic medicine, which training has been approved by the~~  
21 ~~department upon recommendation of the board;~~

22 ~~(3) Visiting faculty permit shall mean a permit for a~~  
23 ~~physician qualified by virtue of previous medical training and~~  
24 ~~experience to teach students of medicine, to conduct research, or~~  
25 ~~both;~~

1           ~~(4) Accredited hospital shall mean a hospital accredited~~  
2 ~~by the department upon recommendation of the board;~~

3           ~~(5) Accredited school or college of medicine shall mean~~  
4 ~~any school or college of medicine accredited as such pursuant to~~  
5 ~~the laws of the State of Nebraska; and~~

6           ~~(6) An accredited school or college of osteopathic~~  
7 ~~medicine shall mean any school or college of osteopathic medicine~~  
8 ~~accredited as such under the laws of the State of Nebraska.~~

9           Sec. 661. Accredited hospital means a hospital accredited  
10 by the department, with the recommendation of the board.

11           Sec. 662. Section 71-1,105, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           ~~71-1,105~~ An accredited school or college of medicine  
14 ~~for the purpose of the Uniform Licensing Law shall be means one~~  
15 ~~approved by the department upon the recommendation of the Board of~~  
16 ~~Medicine and Surgery, board, and such school or college shall meet~~  
17 ~~and maintain generally minimum standards ~~prescribed~~ approved by the~~  
18 ~~board. Such minimum standards shall apply equally to all accredited~~  
19 ~~schools, and any school to be accredited shall permit inspections~~  
20 ~~by the department.~~

21           A school or college of osteopathic medicine and surgery  
22 fulfilling all ~~the foregoing~~ such requirements shall not be refused  
23 standing as an accredited medical school because it may also  
24 specialize in giving instruction according to any special system of  
25 healing.



1           Sec. 663. Section 71-1,140, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-1,140~~ An accredited school or college of osteopathic  
4 medicine ~~shall be~~ means one approved by the ~~department upon the~~  
5 ~~recommendation of the Board of Medicine and Surgery.~~ board. An  
6 accredited school or college of osteopathic medicine shall meet  
7 and maintain general minimum standards ~~prescribed~~ approved by the  
8 board. The minimum standards shall apply equally to all such  
9 accredited schools and colleges. Any school or college seeking  
10 accreditation shall permit inspections by the department.

11           Nothing in this section shall be construed to prohibit  
12 the department, ~~upon consultation with~~ the recommendation of the  
13 board, from accepting accreditation of a school or college of  
14 osteopathic medicine by the American Osteopathic Association as  
15 evidence of meeting the specified requirements of this section or  
16 the equivalent thereof.

17           Sec. 664. Section 71-1,344, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-1,344~~ For purposes of sections ~~71-1,344 to 71-1,349~~  
20 and elsewhere in the Uniform Licensing Law, unless the  
21 ~~context otherwise requires:~~(1) Acupuncture means the insertion,  
22 manipulation, and removal of acupuncture needles and the  
23 application of manual, mechanical, thermal, electrical, and  
24 electromagnetic treatment to such needles at specific points or  
25 meridians on the human body in an effort to promote, maintain,

1 and restore health and for the treatment of disease, based on  
2 acupuncture theory. Acupuncture may include the recommendation  
3 of therapeutic exercises, dietary guidelines, and nutritional  
4 support to promote the effectiveness of the acupuncture treatment.  
5 Acupuncture does not include manipulation or mobilization of or  
6 adjustment to the spine, extraspinal manipulation, or the practice  
7 of medical nutrition therapy. ~~+~~

8 ~~(2) Acupuncturist means a person engaged in the practice~~  
9 ~~of acupuncture; and~~

10 ~~(3) Board means the Board of Medicine and Surgery.~~

11 Sec. 665. Acupuncturist means a person engaged in the  
12 practice of acupuncture.

13 Sec. 666. Approved program means a program for the  
14 education of physician assistants which the board formally  
15 approves.

16 Sec. 667. Backup physician means a physician designated  
17 by the supervising physician to ensure supervision of the physician  
18 assistant in the supervising physician's absence. A backup  
19 physician shall be subject to the same requirements imposed upon  
20 the supervising physician when the backup physician is acting as a  
21 supervising physician.

22 Sec. 668. Board means the Board of Medicine and Surgery.

23 Sec. 669. Committee means the Physician Assistant  
24 Committee created in section 714 of this act.

25 Sec. 670. Fellowship means a program of supervised

1 educational training, approved by the board, in a medical specialty  
 2 or subspecialty at an accredited hospital, an accredited school  
 3 or college of medicine, or an accredited school or college of  
 4 osteopathic medicine, that follows the completion of undergraduate  
 5 medical education.

6           Sec. 671. Graduate medical education or residency means  
 7 a program of supervised educational training, approved by the  
 8 board, in a medical specialty at an accredited hospital, an  
 9 accredited school or college of medicine, or an accredited school  
 10 or college of osteopathic medicine, that follows the completion of  
 11 undergraduate medical education.

12           Sec. 672. Section 71-1,107.16, Reissue Revised Statutes  
 13 of Nebraska, is amended to read:

14           71-1,107.16 For purposes of sections 71-1,107.15 to  
 15 71-1,107.30, unless the context otherwise requires:

16           ~~(1) Approved program means a program for the education of~~  
 17 ~~physician assistants which the board formally approves;~~

18           ~~(2) Board means the Board of Medicine and Surgery;~~

19           ~~(3) Department means the Department of Health and Human~~  
 20 ~~Services Regulation and Licensure;~~

21           ~~(4) Physician assistant means any person who graduates~~  
 22 ~~from a program approved by the Commission on Accreditation of~~  
 23 ~~Allied Health Education Programs or its predecessor or successor~~  
 24 ~~agency and the board, who satisfactorily completes a proficiency~~  
 25 ~~examination, and whom the board, with the concurrence of the~~

1 department, with the recommendation of the board, approves to  
2 perform medical services under the supervision of a physician  
3 or group of physicians approved by the department, with the  
4 recommendation of the board, to supervise such assistant. ~~;~~

5 ~~(5) Supervision means the ready availability of the~~  
6 ~~supervising physician for consultation and direction of the~~  
7 ~~activities of the physician assistant. Contact with the supervising~~  
8 ~~physician by telecommunication shall be sufficient to show ready~~  
9 ~~availability if the board finds that such contact is sufficient to~~  
10 ~~provide quality medical care. The level of supervision may vary by~~  
11 ~~geographic location as provided in section 71-1,107.17;~~

12 ~~(6) Trainee means any person who is currently enrolled in~~  
13 ~~an approved program;~~

14 ~~(7) Proficiency examination means the initial proficiency~~  
15 ~~examination approved by the board for the licensure of physician~~  
16 ~~assistants, including, but not limited to, the examination~~  
17 ~~administered by the National Commission on Certification of~~  
18 ~~Physician Assistants or other national organization established for~~  
19 ~~such purpose that is recognized by the board;~~

20 ~~(8) Supervising physician means a (a) board-approved~~  
21 ~~physician who utilizes an approved physician assistant or (b)~~  
22 ~~backup physician;~~

23 ~~(9) Backup physician means a physician designated by~~  
24 ~~the supervising physician to ensure supervision of the physician~~  
25 ~~assistant in the supervising physician's absence. A backup~~

1 physician shall be subject to the same requirements imposed upon  
2 the supervising physician when the backup physician is acting as a  
3 supervising physician; and

4 ~~(10) Committee means the Physician Assistant Committee~~  
5 ~~created in section 71-1,107.25.~~

6 Sec. 673. Proficiency examination means the initial  
7 proficiency examination approved by the board for the licensure  
8 of physician assistants, including, but not limited to,  
9 the examination administered by the National Commission on  
10 Certification of Physician Assistants or other national  
11 organization established for such purpose that is recognized by  
12 the board.

13 Sec. 674. Refresher course means a planned program  
14 of supervised educational training, approved by the board, that  
15 provides a review of medical knowledge and skills for the purpose  
16 of the enhancement of clinical competency.

17 Sec. 675. Supervising physician means (1) a  
18 board-approved physician who utilizes a licensed physician  
19 assistant or (2) a backup physician.

20 Sec. 676. Supervision means the ready availability of  
21 the supervising physician for consultation and direction of the  
22 activities of the physician assistant. Contact with the supervising  
23 physician by telecommunication shall be sufficient to show ready  
24 availability if the board finds that such contact is sufficient to  
25 provide quality medical care. The level of supervision may vary by

1 geographic location as provided in section 705 of this act.

2           Sec. 677. Temporary educational permit means a permit to  
3 practice medicine and surgery, osteopathic medicine and surgery, or  
4 any of their allied specialties in graduate medical education, a  
5 fellowship, or a refresher course.

6           Sec. 678. Trainee means any person who is currently  
7 enrolled in an approved program.

8           Sec. 679. Unprofessional conduct means any departure from  
9 or failure to conform to the standards of acceptable and prevailing  
10 practice of medicine and surgery or the ethics of the profession,  
11 regardless of whether a person, patient, or entity is injured, or  
12 conduct that is likely to deceive or defraud the public or is  
13 detrimental to the public interest, including, but not limited to:

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

19           (2) Performing an abortion upon a minor without having  
20 satisfied the notice requirements of sections 71-6901 to 71-6908;  
21 and

22           (3) The intentional and knowing performance of a  
23 partial-birth abortion as defined in subdivision (9) of section  
24 28-326, unless such procedure is necessary to save the life of the  
25 mother whose life is endangered by a physical disorder, physical

1 illness, or physical injury, including a life-endangering physical  
 2 condition caused by or arising from the pregnancy itself.

3           Sec. 680. Visiting faculty permit means a permit for  
 4 a physician qualified by virtue of previous medical training and  
 5 experience to teach students of medicine, to conduct research, or  
 6 both.

7           Sec. 681. The board shall consist of eight members,  
 8 including at least two public members. Two of the six professional  
 9 members of the board shall be officials or members of the  
 10 instructional staff of an accredited medical school in this state.  
 11 One of the six professional members of the board shall be a person  
 12 who has a license to practice osteopathic medicine and surgery in  
 13 this state.

14           Sec. 682. Section 71-1,102, Revised Statutes Cumulative  
 15 Supplement, 2006, is amended to read:

16           ~~71-1,102~~ For the purpose of the Uniform Licensing Law,  
 17 purposes of the Uniform Credentialing Act, and except as provided  
 18 in section ~~71-1,103~~ 683 of this act or as otherwise provided by  
 19 law, the following classes of persons shall be deemed to be engaged  
 20 in the practice of medicine and surgery:

21           (1) Persons who publicly profess to be physicians, or  
 22 surgeons, ~~or obstetricians~~ or publicly profess to assume the duties  
 23 incident to the practice of medicine, surgery, ~~or obstetrics,~~ or  
 24 any of their branches;

25           (2) ~~persons~~ Persons who prescribe and furnish medicine

1 for some illness, disease, ailment, injury, pain, deformity, or any  
2 physical or mental condition, or treat the same by surgery;

3 (3) ~~persons~~ Persons holding themselves out to the public  
4 as being qualified in the diagnosis or treatment of diseases,  
5 ailments, pain, deformity, or any physical or mental condition, or  
6 injuries of human beings;

7 (4) ~~persons~~ Persons who suggest, recommend, or prescribe  
8 any form of treatment for the intended palliation, relief, or cure  
9 of any physical or mental ailment of any person;

10 (5) ~~persons~~ Persons who maintain an office for the  
11 examination or treatment of persons afflicted with ailments,  
12 diseases, injuries, pain, deformity, or any physical or mental  
13 condition of human beings;

14 (6) ~~persons~~ Persons who attach to their name the title  
15 of M.D., surgeon, physician, physician and surgeon, or any word or  
16 abbreviation ~~indicating~~ and who indicate that they are engaged in  
17 the treatment or diagnosis of ailments, diseases, injuries, pain,  
18 deformity, infirmity, or any physical or mental condition of human  
19 beings; and

20 (7) ~~persons~~ Persons who are physically located in another  
21 state but who, through the use of any medium, including an  
22 electronic medium, perform for compensation any service which  
23 constitutes the healing arts that would affect the diagnosis or  
24 treatment of an individual located in this state.

25 Sec. 683. Section 71-1,103, Revised Statutes Cumulative



1 Supplement, 2006, is amended to read:

2 ~~71-1,103~~ The following classes of persons shall not be  
3 construed to be engaged in the unauthorized practice of medicine:

4 (1) Persons rendering gratuitous services in cases of  
5 emergency;

6 (2) Persons administering ordinary household remedies;

7 (3) The members of any church practicing its religious  
8 tenets, except that they shall not prescribe or administer drugs or  
9 medicines, perform surgical or physical operations, nor assume the  
10 title of or hold themselves out to be physicians, and such members  
11 shall not be exempt from the quarantine laws of this state;

12 (4) Students of medicine who are studying in an  
13 accredited school or college of medicine and who gratuitously  
14 prescribe for and treat disease under the supervision of a licensed  
15 physician;

16 (5) Physicians ~~of~~ who serve in the armed forces of the  
17 United States or the United States Armed Forces or Public Health  
18 Service or who are employed by the United States Department of  
19 Veterans Affairs when acting in the line of such duty in this  
20 state, or other federal agencies, if their practice is limited to  
21 that service or employment;

22 (6) Physicians who are licensed in good standing to  
23 practice medicine under the laws of another state when incidentally  
24 called into this state or contacted via electronic or other medium  
25 for consultation with a physician licensed in this state. For

1 purposes of this subdivision, consultation means evaluating the  
2 medical data of the patient as provided by the treating physician  
3 and rendering a recommendation to such treating physician as to the  
4 method of treatment or analysis of the data. The interpretation of  
5 a radiological image by a physician who specializes in radiology is  
6 not a consultation;

7 (7) Physicians who are licensed in good standing to  
8 practice medicine in another state but who, from such other  
9 state, order diagnostic or therapeutic services on an irregular or  
10 occasional basis, to be provided to an individual in this state, if  
11 such physicians do not maintain and are not furnished for regular  
12 use within this state any office or other place for the rendering  
13 of professional services or the receipt of calls;

14 (8) Physicians who are licensed in good standing to  
15 practice medicine in another state and who, on an irregular and  
16 occasional basis, are granted temporary hospital privileges to  
17 practice medicine and surgery at a hospital or other medical  
18 facility licensed in this state;

19 ~~(9) Physicians who are licensed in good standing to~~  
20 ~~practice medicine in another state and who have been recommended by~~  
21 ~~the secretary of the board of examiners in the state of licensure~~  
22 ~~and granted temporary practice rights by the Board of Medicine and~~  
23 ~~Surgery, with the approval of the department, for a period not to~~  
24 ~~exceed three months in any twelve-month period;~~

25 ~~(10)~~ (9) Persons providing or instructing as to use of

1 braces, prosthetic appliances, crutches, contact lenses, and other  
2 lenses and devices prescribed by a physician licensed to practice  
3 medicine while working under the direction of such physician;

4 ~~(11)~~ (10) Dentists practicing their profession when  
5 licensed and practicing in accordance with ~~sections 71-183 to~~  
6 ~~71-191,~~ the Dentistry Practice Act;

7 ~~(12)~~ (11) Optometrists practicing their profession when  
8 licensed and practicing under and in accordance with ~~sections~~  
9 ~~71-1,133 to 71-1,136,~~ the Optometry Practice Act;

10 ~~(13)~~ (12) Osteopathic physicians practicing their  
11 profession if licensed and practicing under and in accordance with  
12 sections ~~71-1,137 and 71-1,141,~~ 687 and 691 of this act;

13 ~~(14)~~ (13) Chiropractors practicing their profession if  
14 licensed and practicing under ~~sections 71-177 to 71-182,~~ the  
15 Chiropractic Practice Act;

16 ~~(15)~~ (14) Podiatrists practicing their profession when  
17 licensed and practicing under and in accordance with ~~sections~~  
18 ~~71-173 to 71-176,~~ the Podiatry Practice Act;

19 ~~(16)~~ (15) Psychologists practicing their profession when  
20 licensed and practicing under and in accordance with ~~sections~~  
21 ~~71-1,206.01 to 71-1,206.35,~~ the Psychology Practice Act;

22 ~~(17)(a)~~ Until July 1, 2007, advanced practice registered  
23 nurses and certified registered nurse anesthetists practicing  
24 their professions and practicing under and in accordance with  
25 ~~the Advanced Practice Registered Nurse Act,~~ and

1           ~~(b)~~ ~~On and after July 1, 2007,~~ advanced (16) Advanced  
2 practice registered nurses practicing in their clinical specialty  
3 areas when licensed under the Advanced Practice Registered Nurse  
4 ~~Licensure~~ Practice Act and practicing under and in accordance with  
5 their respective ~~certification~~ practice acts;

6           ~~(18)~~ (17) Persons licensed or certified under the laws  
7 of this state to practice a limited field of the healing art,  
8 not specifically named in this section, when confining themselves  
9 strictly to the field for which they are licensed or certified,  
10 not assuming the title of physician, surgeon, or physician and  
11 surgeon, and not professing or holding themselves out as qualified  
12 to prescribe drugs in any form or to perform operative surgery;

13           ~~(19)~~ (18) Persons obtaining blood specimens while working  
14 under an order of or protocols and procedures approved by a  
15 physician, registered nurse, or other independent health care  
16 practitioner licensed to practice by the state if the scope of  
17 practice of that practitioner permits the practitioner to obtain  
18 blood specimens; and

19           ~~(20)~~ (19) Other trained persons employed by a licensed  
20 health care facility or health care service defined in the Health  
21 Care Facility Licensure Act or clinical laboratory certified  
22 pursuant to the federal Clinical Laboratories Improvement Act  
23 of 1967, as amended, or Title XVIII or XIX of the federal Social  
24 Security Act to withdraw human blood for scientific or medical  
25 purposes.

1           Any person who has held or applied for a license to  
2 practice medicine and surgery in this state, and such license  
3 or application has been denied or such license has been refused  
4 renewal or disciplined by order of limitation, suspension, or  
5 revocation, shall be ineligible for the exceptions described in  
6 subdivisions (5) through ~~(9)~~ (8) of this section until such license  
7 or application is granted or such license is renewed or reinstated.  
8 Every act or practice falling within the practice of medicine and  
9 surgery as defined in section ~~71-1,102~~ 682 of this act and not  
10 specially excepted in this section shall constitute the practice of  
11 medicine and surgery and may be performed in this state only by  
12 those licensed by law to practice medicine in Nebraska.

13           Sec. 684. Section 71-1,104, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           ~~71-1,104 (1)~~ Each applicant for a license to practice  
16 medicine and surgery shall:

17           ~~(a)(i)~~ (1)(a) Present proof that he or she is a  
18 graduate of an accredited school or college of medicine, ~~(ii)~~  
19 (b) if a foreign medical graduate, provide a copy of a permanent  
20 certificate issued by the Educational Commission on Foreign Medical  
21 Graduates that is currently effective and relates to such applicant  
22 or provide such credentials as are necessary to certify that  
23 such foreign medical graduate has successfully passed the Visa  
24 Qualifying Examination or its successor or equivalent examination  
25 required by the United States Department of Health and Human

1 Services and the United States Immigration and Naturalization  
2 Service, or ~~(iii)~~ (c) if a graduate of a foreign medical school  
3 who has successfully completed a program of American medical  
4 training designated as the Fifth Pathway and who additionally has  
5 successfully passed the Educational Commission on Foreign Medical  
6 Graduates examination but has not yet received the permanent  
7 certificate attesting to the same, provide such credentials as  
8 certify the same to the Department of Health and Human Services  
9 Regulation and Licensure;

10 ~~(b)~~ (2) Present proof that he or she has served at least  
11 one year of graduate medical education approved by the ~~Board of~~  
12 ~~Medicine and Surgery~~ board or, if a foreign medical graduate,  
13 present proof that he or she has served at least three years of  
14 graduate medical education approved by the board;

15 ~~(e)~~ (3) Pass a licensing examination ~~designated~~ approved  
16 by the board and the ~~department~~ covering appropriate medical  
17 subjects; and

18 ~~(d)~~ (4) Present proof satisfactory to the ~~board~~  
19 department that he or she, within the three years immediately  
20 preceding the application for licensure, ~~(i)~~ (a) has been in the  
21 active practice of the profession of medicine and surgery in some  
22 other state, a territory, the District of Columbia, or Canada  
23 for a period of one year, ~~(ii)~~ (b) has had at least one year of  
24 graduate medical education as described in subdivision ~~(1)(b)~~ (2)  
25 of this section, ~~(iii)~~ (c) has completed continuing education in

1 medicine and surgery approved by the board, ~~(iv)~~ (d) has completed  
2 a refresher course in medicine and surgery approved by the board,  
3 or ~~(v)~~ (e) has completed the special purposes examination approved  
4 by the board.

5 ~~(2) The department, upon the recommendation of the board,~~  
6 ~~may waive any requirement for more than one year of approved~~  
7 ~~graduate medical education, as set forth in subdivision (1)(b)~~  
8 ~~of this section, if the applicant has served at least one year~~  
9 ~~of graduate medical education approved by such board and if the~~  
10 ~~following conditions are met:~~

11 ~~(a) The applicant meets all other qualifications for a~~  
12 ~~license to practice medicine and surgery,~~

13 ~~(b) The applicant submits satisfactory proof that the~~  
14 ~~issuance of a license based on the waiver of the requirement of~~  
15 ~~more than one year of approved graduate medical education will not~~  
16 ~~jeopardize the health, safety, and welfare of the citizens of this~~  
17 ~~state; and~~

18 ~~(c) The applicant submits proof that he or she will enter~~  
19 ~~into the practice of medicine in a health profession shortage area~~  
20 ~~designated as such by the Nebraska Rural Health Advisory Commission~~  
21 ~~immediately upon obtaining a license to practice medicine and~~  
22 ~~surgery based upon a waiver of the requirement for more than one~~  
23 ~~year of graduate medical education.~~

24 ~~(3) A license issued on the basis of such a waiver~~  
25 ~~shall be subject to the limitation that the licensee continue in~~

1 practice in the health profession shortage area and such other  
2 limitations, if any, deemed appropriate under the circumstances  
3 by the Director of Regulation and Licensure, upon recommendation  
4 of the board, which may include, but shall not be limited to,  
5 supervision by a medical practitioner, training, education, and  
6 scope of practice. After two years of practice under a limited  
7 license issued on the basis of a waiver of the requirement of more  
8 than one year of graduate medical education, a licensee may apply  
9 to the department for removal of the limitations. The director,  
10 upon the recommendation of the board, may grant or deny such  
11 application or may continue the license with limitations.

12 (4) In addition to any other grounds for disciplinary  
13 action against the license contained in the Uniform Licensing  
14 Law, the department may take disciplinary action against a license  
15 granted on the basis of a waiver of the requirement of more  
16 than one year of graduate medical education for violation of the  
17 limitations on the license. The department, upon the recommendation  
18 of the board, shall adopt and promulgate rules and regulations for  
19 the purpose of implementing and administering this section.

20 Sec. 685. (1) The department, with the recommendation of  
21 the board, may waive any requirement for more than one year of  
22 approved graduate medical education, as set forth in subdivision  
23 (2) of section 684 of this act, if the applicant has served at  
24 least one year of graduate medical education approved by the board  
25 and if the following conditions are met:



1           (a) The applicant meets all other qualifications for a  
2 license to practice medicine and surgery;

3           (b) The applicant submits satisfactory proof that the  
4 issuance of a license based on the waiver of the requirement of  
5 more than one year of approved graduate medical education will not  
6 jeopardize the health, safety, and welfare of the citizens of this  
7 state; and

8           (c) The applicant submits proof that he or she will enter  
9 into the practice of medicine in a health profession shortage area  
10 designated as such by the Nebraska Rural Health Advisory Commission  
11 immediately upon obtaining a license to practice medicine and  
12 surgery based upon a waiver of the requirement for more than one  
13 year of graduate medical education.

14           (2) A license issued on the basis of such a waiver  
15 shall be subject to the limitation that the licensee continue in  
16 practice in the health profession shortage area and such other  
17 limitations, if any, deemed appropriate under the circumstances  
18 by the director, with the recommendation of the board, which may  
19 include, but shall not be limited to, supervision by a medical  
20 practitioner, training, education, and scope of practice. After two  
21 years of practice under a limited license issued on the basis of  
22 a waiver of the requirement of more than one year of graduate  
23 medical education, a licensee may apply to the department for  
24 removal of the limitations. The director, with the recommendation  
25 of the board, may grant or deny such application or may continue

1 the license with limitations.

2 (3) In addition to any other grounds for disciplinary  
3 action against the license contained in the Uniform Credentialing  
4 Act, the department may take disciplinary action against a license  
5 granted on the basis of a waiver of the requirement of more  
6 than one year of graduate medical education for violation of the  
7 limitations on the license.

8 Sec. 686. An applicant for a license to practice medicine  
9 and surgery based on a license in another state or territory of the  
10 United States or the District of Columbia shall meet the standards  
11 set by the board pursuant to section 26 of this act, except that  
12 an applicant who has not passed one of the licensing examinations  
13 specified in the rules and regulations but has been duly licensed  
14 to practice medicine and surgery in some other state or territory  
15 of the United States of America or in the District of Columbia and  
16 obtained that license based upon a state examination, as approved  
17 by the board, may be issued a license by the department, with the  
18 recommendation of the board, to practice medicine and surgery.

19 Sec. 687. Section 71-1,137, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 ~~71-1,137~~ For the purpose of the Uniform Licensing Law,  
22 (1) For purposes of the Uniform Credentialing Act, the following  
23 classes of persons shall be deemed to be engaged in practice as  
24 osteopathic physicians:

25 ~~(1)~~ (a) Persons publicly professing to be osteopathic

1 physicians or publicly professing to assume the duties incident to  
2 the practice of osteopathic physicians; and ~~(2) persons~~

3 (b) Persons who are graduates of a school or college of  
4 osteopathic medicine and who treat human ailments by that system  
5 of the healing art which was advocated and taught by the school or  
6 college of osteopathic medicine from which such person graduated at  
7 the time of his or her graduation as determined by the department,  
8 with the recommendation of the board.

9 ~~(2) after consultation with the Board of Medicine and~~  
10 ~~Surgery.~~ No license issued under this section to osteopathic  
11 physicians under the Medicine and Surgery Practice Act shall  
12 authorize the person so licensed to perform surgical procedures  
13 except those usually performed by general practitioners, as  
14 determined by the department, ~~upon consultation with the~~  
15 recommendation of the board.

16 (3) Nothing in this section shall be construed to  
17 prohibit an osteopathic physician licensed in accordance with  
18 ~~this section~~ the act from serving as an assistant in surgery more  
19 complex than that usually performed by general practitioners, as  
20 determined ~~above,~~ by the department, with the recommendation of the  
21 board, when such surgery is performed by an osteopathic physician  
22 licensed pursuant to section ~~71-1,139.01~~ 690 of this act or by an  
23 osteopathic physician or doctor of medicine licensed pursuant to  
24 section ~~71-1,104.~~ 684 of this act. In no event shall this section  
25 or section ~~71-1,139.01~~ 690 of this act be construed as authorizing

1 any physician to engage in any procedure which he or she is  
 2 not qualified by training to perform according to the standards  
 3 prevailing in the State of Nebraska at the time.

4 (4) Persons who are licensed to practice as osteopathic  
 5 physicians who have demonstrated to the department, with the  
 6 recommendation of the board, that they have acquired adequate  
 7 training and knowledge for such purpose and have been so authorized  
 8 by such board the department, with the recommendation of the  
 9 board, may prescribe and administer drugs and medicines. The board  
 10 shall provide procedures for determining an osteopathic physician's  
 11 qualifications to prescribe and administer drugs and medicines and  
 12 for issuing appropriate evidence of authority to do so.

13 Sec. 688. Section 71-1,138, Reissue Revised Statutes of  
 14 Nebraska, is amended to read:

15 71-1,138 Section 71-1,137 shall not be construed to  
 16 include For purposes of the Uniform Credentialing Act, the  
 17 following classes of persons shall not be construed as engaged  
 18 in practice as osteopathic physicians:

19 (1) Licensed physicians and surgeons, podiatrists,  
 20 nurses, and dentists who are exclusively engaged in the practice  
 21 of their respective professions;

22 (2) ~~physicians~~ Physicians and surgeons who serve in the  
 23 armed forces of the United States Armed Forces or the United States  
 24 Public Health Service or who are employed by the United States  
 25 Department of Veterans Affairs or other federal agencies, if their

1 ~~practice is limited to that service or employment; when acting in~~  
2 ~~the line of duty in this state; and~~

3 (3) ~~osteopathic~~ Osteopathic physicians licensed in  
4 another state when incidentally called into this state in  
5 consultation with a licensed physician or an osteopathic physician  
6 licensed in this state.

7 Sec. 689. Section 71-1,139, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-1,139~~ Every applicant for a license to practice as an  
10 osteopathic physician shall (1) present proof of having completed  
11 a four-year course in an accredited high school or its equivalent,  
12 (2) present proof of having graduated from an accredited school  
13 or college of osteopathic medicine, and (3) pass an examination,  
14 as prescribed by the Board of Medicine and Surgery, approved by  
15 the board, in the science of osteopathy and the practice of the  
16 same. The application for a license to practice as an osteopathic  
17 physician shall include the applicant's social security number.

18 The department shall accept, in lieu of the examination  
19 provided in subdivision (3) of this section, a certificate of  
20 examination issued by the National Board of Osteopathic Examiners  
21 of the United States of America. Every applicant for a license upon  
22 the basis of such certificate shall be required to pay the fees  
23 prescribed for licenses issued to osteopathic physicians without  
24 examination, based upon a license by examination held in another  
25 state or territory or the District of Columbia.

1           Sec. 690. Section 71-1,139.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           ~~71-1,139.01~~ (1) If a person (a) has graduated from an  
4 accredited school or college of osteopathic medicine since January  
5 1, 1963, (b) meets all statutory requirements for licensure as  
6 an osteopathic physician, (c) has served one year of internship  
7 or its equivalent at an institution approved for such training  
8 by the ~~Board of Medicine and Surgery,~~ board, (d) after his or  
9 her internship, has taken and passed the examination provided  
10 in section 71-1,104, and (e) presents proof satisfactory to the  
11 department, with the recommendation of the board, that he or she,  
12 within the three years immediately preceding the application for  
13 licensure, (i) has been in the active practice of the profession of  
14 osteopathic medicine and surgery in some other state, a territory,  
15 the District of Columbia, or Canada for a period of one year, (ii)  
16 has had one year of graduate medical education as described in  
17 subdivision (1)(c) of this section, (iii) has completed continuing  
18 education in medicine and surgery or osteopathic medicine and  
19 surgery approved by the board, (iv) has completed a refresher  
20 course in medicine and surgery or osteopathic medicine and surgery  
21 approved by the board, or (v) has completed the special purposes  
22 examination approved by the board, such person, upon making  
23 application therefor, shall receive a license as a Doctor of  
24 Osteopathic Medicine and Surgery which shall qualify such person to  
25 practice osteopathic medicine and surgery.

1           ~~(2)~~ The department shall accept, in lieu of the  
 2 examination provided in subdivision ~~(1)(d)~~ of this section,  
 3 a certificate of examination issued by the National Board of  
 4 Osteopathic Examiners of the United States of America. Every  
 5 applicant for a license upon the basis of such certificate shall  
 6 be required to pay the fees prescribed for licenses issued in  
 7 osteopathic medicine and surgery without examination, based upon a  
 8 license by examination held in another state or territory or the  
 9 District of Columbia.

10           ~~(3)~~ (2) With respect to persons who have graduated from  
 11 an accredited school or college of osteopathic medicine prior to  
 12 January 1, 1963, the department, upon the approval of the Board  
 13 of Medicine and Surgery, with the recommendation of the board, may  
 14 issue a license to practice osteopathic medicine and surgery to any  
 15 such graduate who meets all the requirements for issuance of such  
 16 license except graduation from an accredited school or college of  
 17 osteopathic medicine after January 1, 1963., and whose application  
 18 has been approved by the board.

19           Sec. 691. Section 71-1,141, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21           ~~71-1,141~~ (1) With respect to licenses issued pursuant  
 22 to sections ~~71-1,139 and 71-1,139.01~~ 689 and 690 of this act and  
 23 any renewals thereof, the Department of Health and Human Services  
 24 Regulation and Licensure department shall designate the extent of  
 25 such practice as follows:

1           ~~(1)~~ (a) License to practice as an osteopathic physician;  
2 or

3           ~~(2)~~ (b) License to practice osteopathic medicine and  
4 surgery.

5           (2) Every license issued under sections ~~71-1,139~~ and  
6 ~~71-1,139.01~~ 689 and 690 of this act shall confer upon the holder  
7 thereof the right to practice osteopathic medicine and surgery  
8 as taught in the schools or colleges of osteopathic medicine  
9 recognized by the American Osteopathic Association in the manner  
10 and to the extent provided by such license.

11           Sec. 692. An applicant for a license to practice  
12 osteopathic medicine and surgery based on a license in another  
13 state or territory of the United States or the District of Columbia  
14 shall meet the standards set by the board pursuant to section 26 of  
15 this act, except that an applicant who has not passed one of the  
16 licensing examinations specified in the rules and regulations but  
17 has been duly licensed to practice osteopathic medicine and surgery  
18 in some other state or territory of the United States of America  
19 or in the District of Columbia and obtained that license based upon  
20 a state examination, as approved by the board, may be issued a  
21 license by the department, upon the recommendation of the board, to  
22 practice osteopathic medicine and surgery.

23           Sec. 693. Applicants for licensure in medicine and  
24 surgery and osteopathic medicine and surgery shall pass the  
25 licensing examination. An applicant who fails to pass any part of



1 the 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 ten years. An applicant who fails to successfully complete the  
6 licensing examination within the time allowed shall retake that  
7 part of the examination which was not completed within the time  
8 allowed.

9           Sec. 694. A physician locum tenens may be issued by  
10 the department, with the recommendation of the board, to an  
11 individual who holds an active license to practice medicine and  
12 surgery or osteopathic medicine and surgery in another state when  
13 circumstances indicate a need for the issuance of a physician locum  
14 tenens in the State of Nebraska. A physician locum tenens may be  
15 issued for a period not to exceed ninety days in any twelve-month  
16 period.

17           Sec. 695. In addition to the grounds for disciplinary  
18 action found in sections 78 and 79 of this act, a license to  
19 practice medicine and surgery or osteopathic medicine and surgery  
20 may be denied, refused renewal, limited, revoked, or suspended or  
21 have other disciplinary measures taken against it in accordance  
22 with section 96 of this act when the applicant or licensee fails to  
23 comply with the provisions of section 71-603.01, 71-604, 71-605, or  
24 71-606 relating to the signing of birth and death certificates.

25           Sec. 696. Section 71-1,107.03, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2           ~~71-1,107.03~~ The holder of a temporary educational permit  
3 or of a visiting faculty permit shall be entitled to practice  
4 medicine and surgery and any of its allied specialties, including  
5 prescribing medicine and ~~narcotics~~, controlled substances, while  
6 serving in a ~~supervised educational program or in an approved~~  
7 graduate medical education, a fellowship, or a refresher course  
8 in program conducted by an accredited hospital in the State of  
9 Nebraska or by an accredited school or college of medicine of  
10 the State of Nebraska, but neither the holder of a temporary  
11 educational permit nor the holder of a visiting faculty permit  
12 shall be qualified to engage in the practice of medicine and  
13 surgery or any of its allied specialties within the State of  
14 Nebraska and outside of the assigned ~~training or teaching~~ graduate  
15 medical education, fellowship, refresher course, teaching program,  
16 or research program.

17           Sec. 697. Section 71-1,107.07, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19           ~~71-1,107.07~~ Before granting any temporary educational  
20 permit, the ~~Department of Health and Human Services Regulation~~  
21 ~~and Licensure~~ department, with the recommendation of the board,  
22 shall ascertain by evidence satisfactory to such board that an  
23 accredited hospital or school or college of medicine in the  
24 State of Nebraska that an authorized provider of graduate medical  
25 education, a fellowship, or a refresher course has requested the

1 issuance of a temporary educational permit for an applicant to  
2 ~~serve as a graduate student participate in its approved program~~  
3 ~~graduate medical education, fellowship, or refresher course for~~  
4 ~~the period involved, and any application for the issuance of such~~  
5 ~~permit shall be signed by the applicant requesting that such permit~~  
6 ~~be issued to him or her and shall designate the specified approved~~  
7 ~~graduate medical educational program with respect to which such~~  
8 ~~permit shall apply.~~

9           Sec. 698. Section 71-1,107.08, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11           ~~71-1,107.08~~ Before a visiting faculty permit shall be is  
12 issued, the Department of Health and Human Services Regulation and  
13 Licensure department, with the recommendation of the board, shall  
14 determine on the basis of evidence satisfactory to the department  
15 that an accredited school or college of medicine in the State of  
16 Nebraska has requested issuance of such a visiting faculty permit  
17 for the individual involved to serve as a member of the faculty  
18 of such school or college of medicine, and that the applicant for  
19 such permit has met the requirements of sections 71-1,107.01 to  
20 ~~71-1,107.14.~~ Any application for issuing a visiting faculty permit  
21 shall be signed by the applicant to whom such permit is to be  
22 issued and shall designate the accredited school or college of  
23 medicine where such applicant proposes to serve as a member of  
24 the faculty and shall outline the faculty duties to be performed  
25 pursuant to the permit.

1           Sec. 699. Section 71-1,107.09, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           ~~71-1,107.09~~ The recommendation of the ~~Board of Medicine~~  
4 ~~and Surgery~~ board for the issuance of any temporary educational  
5 permits or any visiting faculty permits shall be made at regular  
6 meetings of such board, but the ~~president~~ chairperson or one other  
7 member of the board ~~and its executive secretary jointly~~ shall have  
8 the power to recommend the issuance of such permits between the  
9 meetings of the board. ~~which permits shall be subject to approval~~  
10 ~~or disapproval at the next subsequent meeting of the board.~~

11           Sec. 700. Section 71-1,107.06, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           ~~71-1,107.06~~ The duration of any temporary educational or  
14 visiting faculty permit issued pursuant to sections 71-1,107.01  
15 to 71-1,107.14 shall be determined by the Department of Health  
16 ~~and Human Services Regulation and Licensure~~ department but in  
17 no case shall it be in excess of one year. The permit may be  
18 renewed annually as long as the holder of a temporary educational  
19 permit is still enrolled and participating in the program of  
20 supervised educational training or as long as the holder of a  
21 visiting faculty permit is still teaching students of medicine or  
22 conducting research. ~~from time to time at the discretion of the~~  
23 ~~Department of Health and Human Services Regulation and Licensure~~  
24 ~~but in no case shall it be renewed for more than five one-year~~  
25 ~~periods.~~ The department may issue to all qualified graduates of

1 accredited colleges of medicine or accredited schools or colleges  
 2 of osteopathic medicine, who are eligible for the examination  
 3 provided in section 71-1,104, and who make application for such  
 4 examination, a temporary educational permit, without charge. Such  
 5 permit shall be issued only for the duration of the time between  
 6 the date of the examination and the date of licensure granted  
 7 as a result of such examination. Any person issued a temporary  
 8 educational permit without charge shall meet all requirements  
 9 provided for in sections 71-1,107.01 to 71-1,107.13, except the  
 10 required fee, and such exemption is only for the period of time  
 11 between the examination date and the licensing date and for only  
 12 those individuals who take the examination as provided in section  
 13 71-1,104.

14 Sec. 701. Section 71-1,107.11, Reissue Revised Statutes  
 15 of Nebraska, is amended to read:

16 ~~71-1,107.11~~ Any temporary educational or visiting faculty  
 17 permit granted under the authority of sections 71-1,107.01  
 18 ~~to 71-1,107.14~~ may be suspended, limited, or revoked by the  
 19 department, with the ~~upon~~ recommendation of the Board of Medicine  
 20 and Surgery board, at any time upon a finding that the reasons for  
 21 issuing such permit no longer exist or that the person to whom such  
 22 permit has been issued is no longer qualified to hold such permit.

23 Sec. 702. Section 71-1,107.13, Reissue Revised Statutes  
 24 of Nebraska, is amended to read:

25 ~~71-1,107.13~~ A temporary educational permit may be issued

1 to graduates of foreign schools or colleges of medicine or  
2 to individuals if the applicant, in addition to meeting the  
3 other requirements for the issuance of such permit, presents  
4 to the department a copy of a permanent certificate of the  
5 Educational Commission on Foreign Medical Graduates currently  
6 effective and relating to such applicant or, in lieu thereof,  
7 such credentials as are necessary to certify to successful  
8 passage of the Visa Qualifying Examination, or its successor  
9 or equivalent examination, required by the United States Department  
10 of Health and Human Services and the United States Immigration  
11 and Naturalization Service or, if a graduate of a foreign medical  
12 school who has successfully completed a program of American medical  
13 training designated as the Fifth Pathway and who additionally  
14 has successfully passed the Educational Commission on Foreign  
15 Medical Graduates examination but has not yet received a permanent  
16 certificate attesting to the same, and provides such credentials  
17 as are necessary to certify the same to the department, at such  
18 time as the department, with the ~~upon~~ recommendation of the ~~Board~~  
19 ~~of Medicine and Surgery~~ board determines, and, if so directed by  
20 the department, passes an examination ~~prescribed by the department~~  
21 ~~upon recommendation of~~ approved by the board to measure his or  
22 her clinical competence to proceed to advanced training before  
23 advancing beyond the initial phase of the training program, and if  
24 such examination is required, pays the required fee.

25 Sec. 703. Section 71-1,107.14, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2           ~~71-1,107.14~~ A visiting faculty permit may be issued  
 3 to graduates of foreign schools or colleges of medicine or to  
 4 individuals if an accredited college or school of medicine in the  
 5 State of Nebraska has requested that such permit be issued. It  
 6 shall not be necessary for such applicant to provide a certificate  
 7 of the Educational Commission on Foreign Medical Graduates as  
 8 required in the case of temporary educational permits. If directed  
 9 by the department an applicant for a visiting faculty permit may  
 10 be required to pass an examination ~~prescribed by the department~~  
 11 ~~upon recommendation of the Board of Medicine and Surgery~~ approved  
 12 by the board to measure his or her clinical competence to practice  
 13 medicine and if such examination is required the applicant shall  
 14 pay the required fee.

15           Sec. 704. Section 71-1,107.15, Reissue Revised Statutes  
 16 of Nebraska, is amended to read:

17           ~~71-1,107.15~~ The Legislature finds that:

18           (1) ~~That in~~ In its concern with the geographic  
 19 maldistribution of health care services in Nebraska it is essential  
 20 to develop additional health ~~manpower,~~ personnel; and

21           (2) ~~That it~~ It is essential to encourage the more  
 22 effective utilization of the skills of physicians by enabling them  
 23 to delegate health care tasks to qualified physician assistants  
 24 when such delegation is consistent with the patient's health and  
 25 welfare.  ~~and~~

1           ~~(3) That sections 71-1,107.15 to 71-1,107.30 are~~  
2 ~~established~~ It is the intent of the Legislature to encourage the  
3 utilization of such physician assistants by physicians.

4           Sec. 705. Section 71-1,107.17, Reissue Revised Statutes  
5 of Nebraska, is amended to read:

6           ~~71-1,107.17~~ (1) Notwithstanding any other provision of  
7 law, a physician assistant may perform medical services when he  
8 or she renders such services under the supervision of a licensed  
9 physician or group of physicians approved by the department, with  
10 the recommendation of the board, in the specialty area or areas  
11 for which the physician assistant shall be trained or experienced.  
12 Any physician assistant licensed under ~~sections 71-1,107.15 to~~  
13 ~~71-1,107.30~~ the Medicine and Surgery Practice Act to perform  
14 services may perform those services only:

15           (a) In the office of the supervising physician where such  
16 physician maintains his or her primary practice;

17           (b) In any other office which is operated by the  
18 supervising physician with the personal presence of the supervising  
19 physician. The physician assistant may function without the  
20 personal presence of the supervising physician in an office  
21 other than where such physician maintains his or her primary  
22 practice as provided in subsection (2) of this section and when  
23 approved on an individual basis by the department, with the  
24 recommendation of the board. Any such approval shall require site  
25 visits by the supervising physician, regular reporting to the



1 supervising physician by the physician assistant, and arrangements  
2 for supervision at all times by the supervising physician which are  
3 sufficient to provide quality medical care;

4 (c) In a hospital, with the approval of the governing  
5 board of such hospital, where the supervising physician is a  
6 member of the staff and the physician assistant is subject to the  
7 rules and regulations of the hospital. Such rules and regulations  
8 may include, but need not be limited to, reasonable requirements  
9 that physician assistants and the supervising physician maintain  
10 professional liability insurance with such coverage and limits  
11 as may be established by the hospital governing board, upon the  
12 recommendation of the medical staff; or

13 (d) On calls outside such offices, when authorized by the  
14 supervising physician and with the approval of the governing board  
15 of any affected hospital.

16 (2) The department, with the recommendation of the board,  
17 shall adopt and promulgate rules and regulations establishing  
18 minimum requirements for the personal presence of the supervising  
19 physician, stated in hours or percentage of practice time. The  
20 board may provide different minimum requirements for the personal  
21 presence of the supervising physician based on the geographic  
22 location of the supervising physician's primary and other practice  
23 sites and other factors the board deems relevant.

24 Sec. 706. Section 71-1,107.18, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

1           ~~71-1,107.18~~ Notwithstanding any other provision of law, a  
2 trainee may perform medical services when he or she renders such  
3 services within the scope of an approved program.

4           Sec. 707. Section 71-1,107.19, Reissue Revised Statutes  
5 of Nebraska, is amended to read:

6           ~~71-1,107.19~~ (1) The department, with the recommendation  
7 of the board, shall issue licenses to persons who are graduates  
8 of physician assistant programs approved by the board and have  
9 satisfactorily completed a proficiency examination.

10           (2) ~~The board~~ department, with the recommendation of  
11 the board, shall issue temporary licenses to persons who have  
12 successfully completed an approved program for the education  
13 and training of physician assistants but have not yet passed a  
14 proficiency examination. Any temporary license issued pursuant to  
15 this subsection shall be issued for a period not to exceed one  
16 year and under such conditions as ~~the board determines,~~ with the  
17 approval of the department. The determined by the department, with  
18 the recommendation of the board. Upon a showing of good cause,  
19 the temporary license may be extended by the board, ~~with the~~  
20 ~~approval of the department, upon a showing of good cause.~~ with the  
21 recommendation of the board.

22           (3) The board may recognize groups of specialty  
23 classifications of training for physician assistants. These  
24 classifications shall reflect the training and experience of the  
25 physician assistant. The physician assistant may receive training

1 in one or more such classifications which shall be shown on the  
2 license issued.

3 (4) Physician assistants approved by the board prior to  
4 April 16, 1985, shall not be required to complete the proficiency  
5 examination.

6 ~~(5) A physician assistant holding a certificate issued~~  
7 ~~under this section prior to April 16, 1996, may continue to~~  
8 ~~practice under the certificate until it expires and shall be~~  
9 ~~considered licensed for purposes of the statutes and rules and~~  
10 ~~regulations of Nebraska. Upon expiration of the certificate, the~~  
11 ~~physician assistant may apply for a license and shall be granted~~  
12 ~~a license if he or she would otherwise qualify for renewal of a~~  
13 ~~certificate prior to April 16, 1996. Any reference to certified~~  
14 ~~physician assistant in the rules and regulations of the department~~  
15 ~~prior to April 16, 1996, shall be construed to refer to licensed~~  
16 ~~physician assistant until changed by the department.~~

17 Sec. 708. Section 71-1,107.20, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19 ~~71-1,107.20~~ (1) The board department, with the  
20 recommendation of the board, shall formulate guidelines for the  
21 consideration of applications by a licensed physician or physicians  
22 to supervise physician assistants. Any application made by a  
23 physician or physicians shall include all of the following:

24 (a) The qualifications, including related experience, of  
25 the physician assistant intended to be employed;

1 (b) The professional background and specialty of the  
2 physician or physicians; and

3 (c) A description by the physician of his or her, or  
4 physicians of their, practice and the way in which the assistant or  
5 assistants shall be utilized. The application shall provide for the  
6 personal presence of the supervising physician in conformance with  
7 requirements established by the department, with the recommendation  
8 of the board, under section ~~71-1,107.17.~~ 705 of this act.

9 (2) The department, with the recommendation of the  
10 board, with the concurrence of the department, shall approve  
11 an application by a licensed physician to supervise a physician  
12 assistant when the ~~board~~ department, with the recommendation of  
13 the board, is satisfied that the proposed assistant is a graduate  
14 of an approved program, has satisfactorily completed a proficiency  
15 examination, and is fully qualified to perform medical services  
16 under the responsible supervision of a licensed physician. The  
17 public shall be adequately protected by the arrangement proposed in  
18 the application.

19 (3) The department, with the recommendation of the board,  
20 shall ~~certify~~ approve no more than two physician assistants for  
21 any practicing physician, except that this limitation may be waived  
22 by the department, with the recommendation of the board, upon a  
23 showing of good cause by the practicing physician.

24 Sec. 709. Section 71-1,107.23, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

1           ~~71-1,107.23~~ The board, with the concurrence of the  
2 department, may limit, deny, suspend, or revoke the certificate of  
3 approval to supervise a physician assistant held by any physician  
4 when it finds that sections ~~71-1,107.15~~ to ~~71-1,107.30~~ or any of  
5 the rules and regulations adopted and promulgated by the board  
6 thereunder are not being complied with. In cases of failure to  
7 pay the required fees, denial shall be automatic. Any limitation,  
8 denial, suspension, or revocation may be appealed, and the appeal  
9 shall be in accordance with the Administrative Procedure Act.

10           If the supervision of a physician assistant is terminated  
11 by the physician or physician assistant, the physician shall notify  
12 the department of such termination. A physician who thereafter  
13 assumes the responsibility for such supervision shall obtain a  
14 certificate of approval to supervise a physician assistant from  
15 the department prior to the use of the physician assistant in the  
16 practice of medicine.

17           Sec. 710. Section 71-1,107.21, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19           ~~71-1,107.21~~ Any person who has not been approved licensed  
20 by the department, with the recommendation of the board, with the  
21 concurrence of the department, and who holds himself or herself out  
22 as a physician assistant, or who uses any other term to indicate or  
23 imply that he or she is a physician assistant, shall be guilty of a  
24 Class IV felony.

25           Sec. 711. Section 71-1,107.28, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,107.28~~ Any physician or physician groups utilizing  
3 physician assistants shall be liable for any negligent acts  
4 or omissions of physician assistants while acting under their  
5 supervision and control.

6 Sec. 712. Section 71-1,107.29, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8 ~~71-1,107.29~~ Any physician assistant who is licensed  
9 and who renders services under the supervision and control of  
10 a licensed physician as provided by sections ~~71-1,107.15~~ to  
11 ~~71-1,107.30~~ the Medicine and Surgery Practice Act shall not be  
12 construed to be engaged in the unauthorized practice of medicine.

13 Sec. 713. Section 71-1,107.30, Revised Statutes  
14 Cumulative Supplement, 2006, is amended to read:

15 ~~71-1,107.30~~ A physician assistant may prescribe drugs and  
16 devices as delegated to do so by a supervising physician. Any  
17 limitation placed by the supervising physician on the prescribing  
18 authority of the physician assistant shall be recorded on the  
19 physician assistant's scope of practice agreement established  
20 pursuant to rules and regulations adopted and promulgated under  
21 ~~section 71-1,107.24.~~ the Medicine and Surgery Practice Act. All  
22 prescriptions and prescription container labels shall bear the  
23 name of the supervising physician and the physician assistant.  
24 A physician assistant to whom has been delegated the authority  
25 to prescribe controlled substances shall obtain a federal Drug

1 Enforcement Administration registration number. When prescribing  
2 Schedule II controlled substances, the prescription container label  
3 shall bear all information required by the federal Controlled  
4 Substances Act of 1970.

5 Sec. 714. Section 71-1,107.25, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7 ~~71-1,107.25~~ (1) There is hereby created the Physician  
8 Assistant Committee which shall review and make recommendations to  
9 the board regarding all matters relating to physician assistants  
10 that come before the board. Such matters shall include, but not be  
11 limited to, ~~(1)~~ (a) applications for licensure, ~~(2)~~ (b) physician  
12 assistant education, ~~(3)~~ (c) scope of practice, ~~(4)~~ (d) proceedings  
13 arising pursuant to ~~section 71-1,107.23,~~ ~~(5)~~ sections 78 and 79  
14 of this act, (e) physician assistant licensure and supervising  
15 physician requirements, and ~~(6)~~ (f) continuing competency. The  
16 committee shall be directly responsible to the board.

17 (2) The committee shall be appointed by the State Board  
18 of Health and shall be composed of two physician assistants, one  
19 supervising physician, one member of the Board of Medicine and  
20 Surgery, and one public member. The chairperson of the committee  
21 shall be elected by a majority vote of the committee members.

22 (3) At the expiration of the four-year terms of the  
23 members serving on December 1, 2008, All appointments shall be  
24 for ~~four-year~~ five-year terms. ~~at staggered intervals.~~ Members  
25 shall serve no more than two consecutive full five-year terms.

1 Reappointments shall be made by the State Board of Health.

2           (4) The committee shall meet on a regular basis and  
3 committee members shall, in addition to necessary traveling and  
4 lodging expenses, receive a per diem for each day actually engaged  
5 in the discharge of his or her duties, including compensation for  
6 the time spent in traveling to and from the place of conducting  
7 business. Traveling and lodging expenses shall be reimbursed  
8 ~~receive reimbursement for time and travel expenditures~~ on the same  
9 basis as provided in sections 81-1174 to 81-1177. The compensation  
10 shall not exceed fifty dollars per day and shall be determined by  
11 the committee with the approval of the department.

12           Sec. 715. Section 71-1,345, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~71-1,345 Sections 71-1,344 to 71-1,349~~ The provisions of  
15 the Medicine and Surgery Practice Act relating to acupuncture do  
16 not apply to:

17           (1) Any other health care practitioner credentialed under  
18 the ~~Uniform Licensing Law~~ Credentialing Act practicing within the  
19 scope of his or her profession;

20           (2) A student practicing acupuncture under the  
21 supervision of a person licensed to practice acupuncture under the  
22 ~~Uniform Licensing Law~~ Credentialing Act as part of a course of  
23 study approved by the department; or

24           (3) The practice of acupuncture by any person licensed or  
25 certified to practice acupuncture in any other jurisdiction when



1 practicing in an educational seminar sponsored by a state-approved  
2 acupuncture or professional organization if the practice is  
3 supervised directly by a person licensed to practice acupuncture  
4 under the Uniform ~~Licensing Law~~ Credentialing Act.

5 Sec. 716. Section 71-1,346, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 ~~71-1,346~~ It is unlawful to practice acupuncture on a  
8 person in this state unless the acupuncturist is licensed to  
9 practice acupuncture under the Uniform ~~Licensing Law~~ Credentialing  
10 Act and has been presented by the patient with a prior  
11 letter of referral from or a medical diagnosis and evaluation  
12 completed by a practitioner licensed to practice medicine  
13 and surgery or osteopathic medicine and surgery within ninety  
14 days immediately preceding the date of an initial acupuncture  
15 treatment. An acupuncturist licensed under the Uniform ~~Licensing~~  
16 ~~Law~~ Credentialing Act shall provide the same standard of care to  
17 patients as that provided by a person licensed under the Uniform  
18 ~~Licensing Law~~ Credentialing Act to practice medicine and surgery,  
19 osteopathy, or osteopathic medicine and surgery.

20 Sec. 717. Section 71-1,347, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 ~~71-1,347~~ The practice of acupuncture shall not be  
23 performed upon any person except with the voluntary and informed  
24 consent of such person. Information provided in connection with  
25 obtaining such informed consent shall include, but not be limited

1 to, the following:

2 (1) The distinctions and differences between the practice  
3 of acupuncture and the practice of medicine;

4 (2) The disclosure that an acupuncturist is not licensed  
5 to practice medicine or to make a medical diagnosis of the person's  
6 disease or condition and that a physician should be consulted for  
7 such medical diagnosis;

8 (3) The nature and the purpose of the acupuncture  
9 treatment; and

10 (4) Any medical or other risks associated with such  
11 treatment.

12 Sec. 718. Section 71-1,348, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-1,348 An applicant for an initial license to practice~~  
15 ~~acupuncture shall apply to the department on forms provided by the~~  
16 ~~department.~~ At the time of application for an initial license to  
17 practice acupuncture, the applicant shall present to the department  
18 proof that he or she:

19 ~~(1) Is nineteen years of age or older and is of good~~  
20 ~~moral character;~~

21 ~~(2)~~ (1) Has graduated from, after having successfully  
22 completed the acupuncture curriculum requirements of, a formal,  
23 full-time acupuncture program at a ~~board-approved~~ university,  
24 college, or school of acupuncture approved by the board which  
25 includes at least one thousand seven hundred twenty-five hours of

1 entry-level acupuncture education consisting of a minimum of one  
2 thousand didactic and five hundred clinical hours;

3 ~~(3)~~ (2) Has successfully passed an acupuncture  
4 examination approved by the board which shall include a  
5 comprehensive written examination in acupuncture theory, diagnosis  
6 and treatment technique, and point location; and

7 ~~(4)~~ (3) Has successfully completed a clean-needle  
8 technique course approved by the board.

9 Sec. 719. The department shall establish and collect fees  
10 for credentialing under the Medicine and Surgery Practice Act as  
11 provided in sections 51 to 57 of this act.

12 Sec. 720. Sections 720 to 756 of this act shall be known  
13 and may be cited as the Mental Health Practice Act.

14 Sec. 721. Section 71-1,295, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 ~~71-1,295~~ The Legislature finds that, because many mental  
17 health practitioners are not regulated in this state, anyone may  
18 offer mental health services by using an unrestricted title and  
19 that there is no means for identifying qualified practitioners, for  
20 enforcing professional standards, or for holding such practitioners  
21 accountable for their actions. Therefor the Legislature determines  
22 that, in the interest of consumer protection and for the protection  
23 of public health, safety, and welfare, individuals should be  
24 provided a means by which they can be assured that their selection  
25 of a mental health practitioner is based on sound criteria and

1 that the activities of those persons who by any title may offer or  
2 deliver therapeutic mental health services should be regulated.

3 The purpose of licensing mental health practitioners is  
4 to provide for an omnibus title for such persons and to provide for  
5 associated certification of social workers, master social workers,  
6 professional counselors, and marriage and family therapists.

7 Sec. 722. Section 71-1,296, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-1,296~~ For purposes of ~~sections 71-1,295 to 71-1,338,~~  
10 the Mental Health Practice Act and elsewhere in the Uniform  
11 Credentialing Act, unless the context otherwise requires, the  
12 definitions found in ~~sections 71-1,297 to 71-1,311 shall be used.~~  
13 723 to 737 of this act apply.

14 Sec. 723. Section 71-1,297, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 ~~71-1,297~~ Approved educational program shall mean means a  
17 program of education and training approved by the board. Such  
18 approval may be based on the program's accreditation by an  
19 accrediting agency or on standards established by the board in  
20 the manner and form provided in ~~section 71-128.~~ 33 of this act.

21 Sec. 724. Section 71-1,298, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-1,298~~ Board shall mean means the Board of Mental  
24 Health Practice.

25 Sec. 725. Section 71-1,299, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1,299~~ Certified marriage and family therapist ~~shall~~  
3 ~~mean~~ means a person who is certified to practice marriage and  
4 family therapy pursuant to the Uniform ~~Licensing Law~~ Credentialing  
5 Act and who holds a current certificate issued by the department.

6 Sec. 726. Section 71-1,300, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~71-1,300~~ Certified master social work ~~shall mean~~ means  
9 the specialized application of social work values, knowledge,  
10 principles, and methods in all areas of social work practice.  
11 Certified master social work may include the private, independent,  
12 and autonomous practice of social work.

13 Sec. 727. Section 71-1,301, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~71-1,301~~ Certified master social worker ~~shall mean~~ means  
16 a person who meets the standards established in subsection (1)  
17 of section ~~71-1,319~~ 745 of this act and who holds a current  
18 certificate issued by the department.

19 Sec. 728. Section 71-1,302, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 ~~71-1,302~~ Certified professional counselor ~~shall mean~~  
22 means a person who is certified to practice professional counseling  
23 pursuant to the Uniform ~~Licensing Law~~ Credentialing Act and who  
24 holds a current certificate issued by the department.

25 Sec. 729. Section 71-1,303, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~71-1,303~~ Certified social work ~~shall mean~~ means the  
3 professional application of social work values, knowledge,  
4 principles, and methods in all areas of social work practice,  
5 except that certified social work shall not include private,  
6 independent, and autonomous practice of social work.

7 Sec. 730. Section 71-1,304, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~71-1,304~~ Certified social worker ~~shall mean~~ means a  
10 person who meets the standards established in subsection (2)  
11 of section ~~71-1,319~~ 745 of this act and who holds a current  
12 certificate issued by the department.

13 Sec. 731. Section 71-1,305, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 ~~71-1,305~~ Consultation ~~shall mean~~ means a professional  
16 collaborative relationship between a licensed mental health  
17 practitioner and a consultant who is a psychologist licensed  
18 to engage in the practice of psychology as provided in section  
19 ~~71-1,206.14~~ 1045 of this act or a qualified physician in which  
20 (1) the consultant makes a diagnosis based on information supplied  
21 by the licensed mental health practitioner and any additional  
22 assessment deemed necessary by the consultant and (2) the  
23 consultant and the licensed mental health practitioner jointly  
24 develop a treatment plan which indicates the responsibility of each  
25 professional for implementing elements of the plan, updating the

1 plan, and assessing the client's progress.

2           Sec. 732. Section 71-1,306, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~71-1,306~~ Marriage and family therapy ~~shall mean~~ means  
5 the assessment and treatment of mental and emotional disorders,  
6 whether cognitive, affective, or behavioral, within the context of  
7 marriage and family systems through the professional application of  
8 psychotherapeutic and family systems theories and techniques in the  
9 delivery of services to individuals, couples, and families for the  
10 purpose of treating such disorders.

11           Sec. 733. Section 71-1,307, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           ~~71-1,307~~ Mental health practice ~~shall mean~~ means the  
14 provision of treatment, assessment, psychotherapy, counseling, or  
15 equivalent activities to individuals, couples, families, or groups  
16 for behavioral, cognitive, social, mental, or emotional disorders,  
17 including interpersonal or personal situations.

18           Mental health practice ~~shall~~ does not include the  
19 practice of psychology or medicine, prescribing drugs or  
20 electroconvulsive therapy, treating physical disease, injury, or  
21 deformity, diagnosing major mental illness or disorder except  
22 in consultation with a qualified physician or a psychologist  
23 licensed to engage in the practice of psychology as provided  
24 in section ~~71-1,206.14,~~ 1045 of this act, measuring personality  
25 or intelligence for the purpose of diagnosis or treatment

1 planning, using psychotherapy with individuals suspected of  
2 having major mental or emotional disorders except in consultation  
3 with a qualified physician or licensed psychologist, or using  
4 psychotherapy to treat the concomitants of organic illness  
5 except in consultation with a qualified physician or licensed  
6 psychologist.

7           Mental health practice ~~shall include~~ includes the initial  
8 assessment of organic mental or emotional disorders for the purpose  
9 of referral or consultation.

10           Nothing in sections ~~71-1,306, 71-1,310, and 71-1,311~~  
11 732, 736, and 737 of this act shall be deemed to constitute  
12 authorization to engage in activities beyond those described in  
13 this section. Persons certified under ~~sections 71-1,295 to 71-1,338~~  
14 the Mental Health Practice Act but not licensed under section  
15 ~~71-1,314~~ 740 of this act shall not engage in mental health  
16 practice.

17           Sec. 734. Section 71-1,308, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-1,308~~ Mental health practitioner ~~shall mean~~ means a  
20 person who holds himself or herself out as a person qualified  
21 to engage in mental health practice or a person who offers or  
22 renders mental health practice services. A person who is licensed  
23 as a mental health practitioner and certified as a master social  
24 worker may use the title licensed clinical social worker. A person  
25 who is licensed as a mental health practitioner and certified as



1 a professional counselor may use the title licensed professional  
2 counselor. A person who is licensed as a mental health practitioner  
3 and certified as a marriage and family therapist may use the  
4 title licensed marriage and family therapist. No person shall use  
5 the title licensed clinical social worker, licensed professional  
6 counselor, or licensed marriage and family therapist unless he or  
7 she is licensed and certified as provided in this section.

8 A mental health practitioner shall not represent himself  
9 or herself as a physician or psychologist and shall not represent  
10 his or her services as being medical or psychological in nature.

11 Sec. 735. Section 71-1,309, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 ~~71-1,309~~ Mental health program ~~shall mean~~ means an  
14 educational program in a field such as, but not limited to,  
15 social work, professional counseling, marriage and family therapy,  
16 human development, psychology, or family relations, the content of  
17 which contains an emphasis on therapeutic mental health and course  
18 work in psychotherapy and the assessment of mental disorders.

19 Sec. 736. Section 71-1,310, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 ~~71-1,310~~ Professional counseling ~~shall mean~~ means the  
22 assessment and treatment of mental and emotional disorders within  
23 the context of professional counseling theory and practice of  
24 individuals, couples, families, or groups and ~~shall include,~~  
25 includes, but is not ~~be~~ limited to:

1           (1) Assisting individuals or groups through the  
2 counseling relationship to develop understanding, define goals,  
3 plan action, and change behavior with the goal of reflecting  
4 interests, abilities, aptitudes, and needs as they are related  
5 to personal and social concerns, educational progress, and  
6 occupations;

7           (2) Appraisal activities which shall mean selecting,  
8 administering, scoring, and interpreting instruments designed to  
9 assess a person's aptitudes, attitudes, abilities, achievements,  
10 interests, and personal characteristics, except that nothing in  
11 this subdivision shall be construed to authorize a certified  
12 professional counselor to engage in the practice of clinical  
13 psychology as defined in section ~~71-1,206.14~~; 1045 of this act;

14           (3) Referral activities which evaluate data to identify  
15 which persons or groups may better be served by other specialists;

16           (4) Research activities which shall mean reporting,  
17 designing, conducting, or consulting on research in counseling  
18 with human subjects;

19           (5) Therapeutic, vocational, or personal rehabilitation  
20 in relationship to adapting to physical, emotional, or intellectual  
21 disability; and

22           (6) Consulting on any activity listed in this section.

23           Sec. 737. Section 71-1,311, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~71-1,311~~ (1) Social work practice or the practice of

1 social work ~~shall mean~~ means the professional activity of helping  
2 individuals, groups, and families or larger systems such as  
3 organizations and communities to improve, restore, or enhance their  
4 capacities for personal and social functioning and the professional  
5 application of social work values, knowledge, principles, and  
6 methods in the following areas of practice:

7 (a) Information, resource identification and development,  
8 and referral services;

9 (b) Preparation and evaluation of psychosocial  
10 assessments and development of social work service plans;

11 (c) Case management, coordination, and monitoring of  
12 social work service plans in the areas of personal, social, or  
13 economic resources, conditions, or problems;

14 (d) Development, implementation, and evaluation of social  
15 work programs and policies;

16 (e) Supportive contacts to assist individuals and groups  
17 with personal adjustment to crisis, transition, economic change, or  
18 a personal or family member's health condition, especially in the  
19 area of services given in hospitals, health clinics, home health  
20 agencies, schools, shelters for the homeless, shelters for the  
21 urgent care of victims of sexual assault, child abuse, elder abuse,  
22 or domestic violence, nursing homes, and correctional facilities.  
23 Nothing in this subdivision shall be construed to prevent  
24 charitable and religious organizations, the clergy, governmental  
25 agencies, hospitals, health clinics, home health agencies, schools,

1 shelters for the homeless, shelters for the urgent care of victims  
2 of sexual assault, child abuse, elder abuse, or domestic violence,  
3 nursing homes, or correctional facilities from providing supportive  
4 contacts to assist individuals and groups with adjustment to  
5 crisis, transition, economic change, or personal or a family  
6 member's health condition if such persons or organizations do not  
7 represent themselves to be social workers;

8 (f) Social casework for and prevention of psychosocial  
9 dysfunction, disability, or impairment; and

10 (g) Social work research, consultation, and education.

11 (2) Social work practice ~~shall~~ does not include the  
12 following:

13 (a) The measuring and testing of personality or  
14 intelligence;

15 (b) Accepting fees or compensation for the treatment of  
16 disease, injury, or deformity of persons by drugs, surgery, or any  
17 manual or mechanical treatment whatsoever;

18 (c) Prescribing drugs or electroconvulsive therapy; and

19 (d) Treating organic diseases or major psychiatric  
20 diseases.

21 (3) A certified master social worker who practices within  
22 the confines of this section shall not be required to be licensed  
23 as a mental health practitioner.

24 Sec. 738. The board shall consist of eight professional  
25 members and two public members appointed pursuant to section

1 58 of this act. The members shall meet the requirements of  
 2 sections 64 and 65 of this act. Two professional members shall be  
 3 certified master social workers, two professional members shall be  
 4 certified professional counselors, two professional members shall  
 5 be certified marriage and family therapists, and two professional  
 6 members shall be licensed mental health practitioners that do not  
 7 hold an associated certification.

8           Sec. 739. Section 71-1,312, Revised Statutes Cumulative  
 9 Supplement, 2006, is amended to read:

10           ~~71-1,312~~ No person shall engage in mental health practice  
 11 ~~or hold himself or herself out~~ The requirement to be licensed as  
 12 a mental health practitioner unless he or she is licensed for  
 13 such purpose pursuant to the Uniform Licensing Law, except that  
 14 ~~this section~~ Credentialing Act in order to engage in mental health  
 15 practice shall not be construed to prevent:

16           (1) Qualified members of other professions who are  
 17 licensed, certified, or registered by this state from practice  
 18 of any mental health activity consistent with the scope of practice  
 19 of their respective professions;

20           (2) Alcohol and drug counselors who are licensed by the  
 21 Department of Health and Human Services Regulation and Licensure  
 22 and problem gambling counselors who are certified by the Department  
 23 of Health and Human Services from practicing their profession. Such  
 24 exclusion shall include students training and working under the  
 25 supervision of an individual qualified under section ~~71-1,356;~~ 166

1 of this act;

2 (3) Any person employed by an agency, bureau, or division  
3 of the federal government from discharging his or her official  
4 duties, except that if such person engages in mental health  
5 practice in this state outside the scope of such official duty  
6 or represents himself or herself as a licensed mental health  
7 practitioner, he or she shall be licensed;

8 (4) Teaching or the conduct of research related to mental  
9 health services or consultation with organizations or institutions  
10 if such teaching, research, or consultation does not involve the  
11 delivery or supervision of mental health services to individuals  
12 or groups of individuals who are themselves, rather than a third  
13 party, the intended beneficiaries of such services;

14 (5) The delivery of mental health services by:

15 (a) Students, interns, or residents whose activities  
16 constitute a part of the course of study for medicine, psychology,  
17 nursing, school psychology, social work, clinical social work,  
18 counseling, marriage and family therapy, or other health care or  
19 mental health service professions; or

20 (b) Individuals seeking to fulfill postgraduate  
21 requirements for licensure when those individuals are supervised by  
22 a licensed professional consistent with the applicable regulations  
23 of the appropriate professional board;

24 (6) Duly recognized members of the clergy from providing  
25 mental health services in the course of their ministerial duties

1 and consistent with the codes of ethics of their profession if they  
2 do not represent themselves to be mental health practitioners;

3 (7) The incidental exchange of advice or support by  
4 persons who do not represent themselves as engaging in mental  
5 health practice, including participation in self-help groups when  
6 the leaders of such groups receive no compensation for their  
7 participation and do not represent themselves as mental health  
8 practitioners or their services as mental health practice;

9 (8) Any person providing emergency crisis intervention  
10 or referral services or limited services supporting a service plan  
11 developed by and delivered under the supervision of a licensed  
12 mental health practitioner, licensed physician, or a psychologist  
13 licensed to engage in the practice of psychology if such persons  
14 are not represented as being licensed mental health practitioners  
15 or their services are not represented as mental health practice; or

16 (9) Staff employed in a program designated by an agency  
17 of state government to provide rehabilitation and support services  
18 to individuals with mental illness from completing a rehabilitation  
19 assessment or preparing, implementing, and evaluating an individual  
20 rehabilitation plan.

21 Sec. 740. Section 71-1,314, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-1,314 (1) On and after September 1, 1994, no person~~  
24 ~~shall hold himself or herself out as a mental health practitioner~~  
25 ~~unless he or she is licensed as such by the department. A person~~

1 shall be qualified to be a licensed mental health practitioner if  
2 he or she:

3           ~~(a)~~ (1) Has received a master's or doctorate degree  
4 that consists of course work and training which was primarily  
5 therapeutic mental health in content and included a practicum or  
6 internship and was from an approved educational program. Practicums  
7 or internships completed after September 1, 1995, must include a  
8 minimum of three hundred clock hours of direct client contact under  
9 the supervision of a qualified physician, a licensed psychologist,  
10 or a licensed mental health practitioner;

11           ~~(b)~~ (2) Has successfully completed three thousand hours  
12 of supervised experience in mental health practice of which fifteen  
13 hundred hours were in direct client contact in a setting where  
14 mental health services were being offered and the remaining  
15 fifteen hundred hours included, but were not limited to, review  
16 of client records, case conferences, direct observation, and video  
17 observation. For purposes of this subdivision, supervised ~~shall~~  
18 ~~mean~~ means monitored by a qualified physician, a licensed clinical  
19 psychologist, or a certified master social worker, certified  
20 professional counselor, or marriage and family therapist qualified  
21 for certification on September 1, 1994, for any hours completed  
22 before such date or by a qualified physician, a psychologist  
23 licensed to engage in the practice of psychology, or a licensed  
24 mental health practitioner for any hours completed after such date,  
25 including evaluative face-to-face contact for a minimum of one hour



1 per week. Such three thousand hours shall be accumulated after  
2 completion of the master's or doctorate degree and during the five  
3 years immediately preceding the application for licensure; and

4 ~~(e)~~ (3) Has satisfactorily passed an examination approved  
5 by the board. An individual who by reason of educational background  
6 is eligible for certification as a certified master social worker,  
7 a certified professional counselor, or a certified marriage and  
8 family therapist shall take and pass a certification examination  
9 approved by the board before becoming licensed as a mental health  
10 practitioner.

11 ~~(2)~~ For a period of one year following September 1, 1994:

12 ~~(a)~~ An individual who is certified on September 1, 1994,  
13 as a certified master social worker or certified professional  
14 counselor can be licensed as a mental health practitioner by making  
15 application to the department and paying the licensure fee;

16 ~~(b)~~ An individual who has a mental health-related  
17 master's degree, as determined by the board, and five years  
18 experience providing mental health services may, upon successful  
19 completion of the examination for licensure as a mental health  
20 practitioner, be licensed as a mental health practitioner; and

21 ~~(c)~~ An individual who obtains certification as a marriage  
22 and family therapist by September 1, 1995, can be licensed as a  
23 mental health practitioner by making application to the department  
24 and paying the licensure fee.

25 ~~(3)~~ An individual who, within one year after June 17,

1 1997, demonstrates to the board that he or she was certified as  
2 a master social worker or professional counselor shall be licensed  
3 as a mental health practitioner by making application to the  
4 department and paying the licensure fee.

5 ~~(4) The application for a mental health practitioner~~  
6 ~~license shall include the applicant's social security number.~~

7 Sec. 741. Section 71-1,314.01, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9 ~~71-1,314.01~~ (1) A person who needs to obtain the required  
10 three thousand hours of supervised experience in mental health  
11 practice as specified in section ~~71-1,314~~ 740 of this act to  
12 qualify for a mental health practitioner license shall obtain a  
13 provisional mental health practitioner license. To qualify for a  
14 provisional mental health practitioner license, such person shall:

15 (a) Have a master's or doctorate degree that consists  
16 of course work and training which was primarily therapeutic mental  
17 health in content and included a practicum or internship and was  
18 from an approved educational program as specified in such section;

19 ~~(b)(i) Apply within sixty days after September 13, 1997,~~  
20 ~~if the three thousand hours of supervised experience were being~~  
21 ~~earned on September 13, 1997; or~~

22 ~~(ii) (b) Apply at any time following September 13,~~  
23 ~~1997, but prior to earning the three thousand hours of supervised~~  
24 ~~experience; if such experience was not being earned on September~~  
25 ~~13, 1997; and~~

1           (c) Pay the provisional mental health practitioner  
2 license fee.

3           (2) A provisional mental health practitioner license  
4 shall expire upon receipt of licensure as a mental health  
5 practitioner or five years after the date of issuance, whichever  
6 comes first.

7           (3) A person who holds a provisional mental health  
8 practitioner license shall inform all clients that he or she  
9 holds a provisional license and is practicing mental health under  
10 supervision and shall identify the supervisor. Failure to make such  
11 disclosure is a ground for discipline as set forth in section  
12 ~~71-147.~~ 756 of this act.

13           Sec. 742. The department, with the recommendation  
14 of the board, may issue a license based on licensure in  
15 another jurisdiction to an individual who meets the licensure  
16 requirements of the Mental Health Practice Act or substantially  
17 equivalent requirements as determined by the department, with the  
18 recommendation of the board.

19           Sec. 743. Section 71-1,317, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           ~~71-1,317~~ The Legislature finds that certified social  
22 workers and certified master social workers provide a wide range of  
23 psychosocial assessment, intervention, and support services that do  
24 not constitute the clinical treatment services of licensed mental  
25 health practitioners, psychologists, or physicians. The Legislature

1 therefor finds that it is appropriate to provide for certification  
2 of social workers and master social workers.

3 Sec. 744. Section 71-1,318, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~71-1,318 After September 1, 1994, no person may represent~~  
6 ~~himself or herself~~ The requirement to be certified as a social  
7 ~~worker unless he or she is certified to practice social work~~  
8 ~~pursuant to the Uniform Licensing Law, except that nothing in this~~  
9 ~~section~~ Credentialing Act in order to represent himself or herself  
10 as a social worker shall not be construed to prevent:

11 (1) Qualified members of other professions, including,  
12 but not limited to, licensed physicians, registered or licensed  
13 practical nurses, attorneys, marriage and family therapists,  
14 psychologists, psychotherapists, vocational guidance counselors,  
15 school psychologists, members of the clergy, court employees, or  
16 other persons licensed ~~or certified under Chapter 71, article~~  
17 ~~1, credentialed under the Uniform Credentialing Act~~ from doing  
18 work consistent with the scope of practice of their respective  
19 professions, except that such qualified members shall not hold  
20 themselves out to the public by title as being engaged in the  
21 practice of social work; or

22 (2) The activities and services of a student or intern  
23 in social work practice who is pursuing a course of study in  
24 an approved educational program if the activities and services  
25 constitute a part of his or her supervised course of study

1 or experience for certification and are performed under the  
2 supervision of a certified master social worker and the person  
3 is identified by an appropriate title as a social work student or  
4 intern. For purposes of this subdivision, supervision ~~shall mean~~  
5 means that written records of services or procedures are examined  
6 and evaluative interviews are conducted relative thereto by a  
7 certified master social worker.

8 Sec. 745. Section 71-1,319, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 ~~71-1,319~~ (1) A person shall be qualified to be a  
11 certified master social worker if he or she:

12 (a) Has a doctorate or a master's degree in social work  
13 from an approved educational program;

14 (b) Has had a minimum of at least three thousand hours  
15 of experience, in addition to the master's or doctorate degree, in  
16 social work under the supervision as defined in section ~~71-1,318~~  
17 744 of this act of a certified master social worker;

18 (c) Provides evidence to the ~~board~~ department that he or  
19 she meets the requirements of subdivisions (1)(a) and (1)(b) of  
20 this section; and

21 (d) Completes an application ~~which includes his or her~~  
22 ~~social security number~~ and satisfactorily passes an examination  
23 approved by the board.

24 ~~The department, upon the recommendation of the board, may~~  
25 ~~adopt and promulgate rules and regulations defining the experience~~

1 ~~required under subdivision (1)(b) of this section.~~

2 (2) A person shall be qualified to be a certified social  
3 worker if he or she provides evidence to the board that he or  
4 she has a baccalaureate or master's degree in social work from  
5 an approved educational program and completes an application form,  
6 ~~which includes the applicant's social security number.~~

7 Sec. 746. Section 71-1,319.01, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9 ~~71-1,319.01~~ (1) A person who needs to obtain the required  
10 three thousand hours of supervised experience in social work  
11 as specified in section ~~71-1,319~~ 745 of this act to qualify  
12 for certification as a master social worker shall obtain a  
13 provisional certification as a master social worker. To qualify  
14 for a provisional certification as a master social worker, such  
15 person shall:

16 (a) Have a doctorate or master's degree in social work  
17 from an approved educational program; and

18 ~~(b)(i) Apply within sixty days after September 13, 1997,~~  
19 ~~if the three thousand hours of supervised experience were being~~  
20 ~~earned on September 13, 1997; or~~

21 ~~(ii) (b) Apply at any time after September 13, 1997, but~~  
22 ~~prior to earning the three thousand hours of supervised experience.~~  
23 ~~if such experience was not being earned on September 13, 1997;~~  
24 ~~and~~

25 ~~(c) Pay the required fee.~~

1           (2) A provisional master social worker certification  
2 shall expire upon receipt of certification as a master social  
3 worker or five years after the date of issuance, whichever comes  
4 first.

5           (3) A person who holds a provisional certification as a  
6 master social worker shall inform all clients that he or she holds  
7 a provisional certification and is practicing social work under  
8 supervision and shall identify the supervisor. Failure to make such  
9 disclosure is a ground for discipline as set forth in section  
10 ~~71-147.~~ 756 of this act.

11           Sec. 747. The department, with the recommendation of  
12 the board, may issue a certificate based on licensure in another  
13 jurisdiction to represent oneself as a certified marriage and  
14 family therapist, a certified professional counselor, or a social  
15 worker to an individual who meets the requirements of the  
16 Mental Health Practice Act relating to marriage and family  
17 therapy, professional counseling, or social work, as appropriate,  
18 or substantially equivalent requirements as determined by the  
19 department, with the recommendation of the board.

20           Sec. 748. Section 71-1,323, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           ~~71-1,323~~ Nothing in ~~sections 71-1,317 to 71-1,322~~ the  
23 Mental Health Practice Act shall be construed to require the State  
24 of Nebraska, any agency of the State of Nebraska, or any of the  
25 entities which operate under rules and regulations of a state

1 agency, which either employ or contract for the services of social  
 2 services workers, to employ or contract with only persons certified  
 3 pursuant to ~~such sections~~ the act for the performance of any of the  
 4 professional activities enumerated in section ~~71-1,311.~~ 737 of this  
 5 act.

6 Sec. 749. Section 71-1,325, Reissue Revised Statutes of  
 7 Nebraska, is amended to read:

8 ~~71-1,325~~ A person shall be qualified to be a certified  
 9 professional counselor if he or she:

10 (1) Has received a master's degree from an approved  
 11 educational program;

12 (2) Has had three thousand hours of experience in  
 13 professional counseling approved by the board after receipt of  
 14 the master's degree; and

15 (3) Completes an application ~~which includes his or her~~  
 16 ~~social security number~~ and satisfactorily passes an examination  
 17 approved by the board.

18 ~~The department, upon the recommendation of the board,~~  
 19 ~~may adopt and promulgate rules and regulations prescribing the~~  
 20 ~~experience required under subdivision (2) of this section.~~

21 Sec. 750. Section 71-1,329, Reissue Revised Statutes of  
 22 Nebraska, is amended to read:

23 ~~71-1,329~~ (1) A person who applies to the department for  
 24 certification as a marriage and family therapist within one year  
 25 or less after September 1, 1994, shall be qualified for such



1 certification if he or she:

2           (a) Meets the requirements of subsection (2) of this  
3 section; or

4           (b)(i)(A) Provides evidence to the board that he or she  
5 has a master's or doctoral degree in marriage and family therapy  
6 from an educational program approved by the board or from any  
7 program in marriage and family therapy in which the person was  
8 enrolled between January 1, 1975, and August 31, 1991; or

9           (B) Provides evidence to the board that he or she has a  
10 master's or doctoral degree in a field determined by the board to  
11 be related to marriage and family therapy, such as social work,  
12 psychology, sociology, human services, human development, family  
13 relations, or counseling, and has been actively engaged in the  
14 practice of marriage and family therapy for at least three thousand  
15 hours; and

16           (ii) Provides evidence to the board that he or she  
17 has been actually engaged in the practice of marriage and family  
18 therapy for at least twenty hours per week for at least three of  
19 the seven years prior to making such application.

20           (2) (1) A person who applies to the department for  
21 certification as a marriage and family therapist more than one year  
22 after September 1, 1994, shall be qualified for such certification  
23 if he or she:

24           (a) Provides evidence to the board department that he  
25 or she has a master's or doctoral degree in marriage and family

1 therapy from a program approved by the board or a graduate degree  
2 in a field determined by the board to be related to marriage and  
3 family therapy and graduate-level course work determined by the  
4 board to be equivalent to a master's degree in marriage and family  
5 therapy;

6 (b) Provides evidence to the ~~board~~ department that he  
7 or she has had at least three thousand hours of experience in  
8 marriage and family therapy under a qualified supervisor as defined  
9 in ~~subsection (4) of this section~~ following receipt of the graduate  
10 degree; and

11 (c) Completes an application which includes his or her  
12 social security number and passes an examination approved by the  
13 board.

14 ~~(3) Upon payment of the required fee and the provision~~  
15 ~~of evidence to the board of his or her professional education,~~  
16 ~~training, experience, and qualifications to practice marriage~~  
17 ~~and family therapy, a certificate to practice as a certified~~  
18 ~~marriage and family therapist shall be issued to any applicant~~  
19 ~~who applies to the department for a certificate and satisfies~~  
20 ~~the educational requirements of subsection (1) or (2) of this~~  
21 ~~section. An applicant shall submit all materials as the board or~~  
22 ~~department may require to determine his or her qualifications~~  
23 ~~for a certificate to practice as a certified marriage and~~  
24 ~~family therapist and to determine his or her compliance with~~  
25 ~~the requirements of this section. Failure to comply with these~~

1 ~~provisions shall be sufficient grounds to reject an application~~  
2 ~~for a certificate to practice as a certified marriage and family~~  
3 ~~therapist under this section.~~

4 ~~(4)~~ (2) For purposes of this section:

5 (a) Actively engaged in the practice of marriage and  
6 family therapy may include (i) services and activities provided  
7 under the direct supervision of a person with at least a master's  
8 degree in marriage and family therapy from a program approved by  
9 the board or (ii) services and activities that are classified by  
10 title or by description of duties and responsibilities as marriage  
11 and family therapy practice;

12 (b) Qualified supervisor ~~shall mean~~ means a licensed  
13 mental health practitioner, a psychologist licensed to engage in  
14 the practice of psychology, or a licensed physician who meets  
15 supervisory standards established by rules and regulations of the  
16 board and the department; and

17 (c) Supervision ~~shall mean~~ means face-to-face contact  
18 between an applicant and a qualified supervisor during which the  
19 applicant apprises the supervisor of the diagnosis and treatment  
20 of each client, the clients' cases are discussed, the supervisor  
21 provides the applicant with oversight and guidance in treating and  
22 dealing with clients, and the supervisor evaluates the applicant's  
23 performance. In order for a supervised period of time to be  
24 credited toward the time of supervision required by ~~subdivision~~  
25 ~~(2)(b)~~ subsection (1) of this section, it shall consist of the

1 following:

2 (i) A minimum of a ratio of two hours of supervision per  
3 fifteen hours of the applicant's contact with clients;

4 (ii) Focus on raw data from the applicant's clinical work  
5 which is made directly available to the supervisor through such  
6 means as written clinical materials, direct observation, and video  
7 and audio recordings;

8 (iii) A process which is distinguishable from personal  
9 psychotherapy or didactic instruction; and

10 (iv) A proportion of individual and group supervision as  
11 determined by the rules and regulations of the board.

12 Sec. 751. Section 71-1,332, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-1,332~~ Nothing in ~~sections 71-1,329 to 71-1,332~~ the  
15 Mental Health Practice Act shall be construed to require the State  
16 of Nebraska, any agency of the State of Nebraska, or any of the  
17 entities which operate under rules and regulations of a state  
18 agency, which employ or contract for the services of marriage  
19 and family therapists, to employ or contract with only persons  
20 certified pursuant to ~~this section~~ the act for the performance of  
21 any of the professional activities enumerated in section ~~71-1,311-~~  
22 737 of this act.

23 Sec. 752. The department shall establish and collect fees  
24 for credentialing under the Mental Health Practice Act as provided  
25 in sections 51 to 57 of this act.

1           Sec. 753. Section 71-1,335, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-1,335~~ No person licensed or certified pursuant to  
4 ~~sections 71-1,295 to 71-1,338~~ the Mental Health Practice Act shall  
5 disclose any information he or she may have acquired from any  
6 person consulting him or her in his or her professional capacity  
7 except:

8           (1) With the written consent of the person or, in  
9 the case of death or disability, of the person's personal  
10 representative, any other person authorized to sue on behalf  
11 of the person, or the beneficiary of an insurance policy on the  
12 person's life, health, or physical condition. When more than one  
13 person in a family receives therapy conjointly, each such family  
14 member who is legally competent to execute a waiver shall agree to  
15 the waiver referred to in this subdivision. Without such a waiver  
16 from each family member legally competent to execute a waiver,  
17 a practitioner shall not disclose information received from any  
18 family member who received therapy conjointly;

19           (2) As such privilege is limited by the laws of the State  
20 of Nebraska or as the ~~Board of Mental Health Practice~~ board may  
21 determine by rule and regulation;

22           (3) When the person waives the privilege by bringing  
23 charges against the licensee; or

24           (4) When there is a duty to warn under the limited  
25 circumstances set forth in section ~~71-1,336.~~ 754 of this act.

1           Sec. 754. Section 71-1,336, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-1,336~~ (1) There shall be no monetary liability on the  
4 part of, and no cause of action shall arise against, any person who  
5 is licensed or certified pursuant to ~~sections 71-1,295 to 71-1,338~~  
6 the Mental Health Practice Act for failing to warn of and protect  
7 from a patient's threatened violent behavior or failing to predict  
8 and warn of and protect from a patient's violent behavior except  
9 when the patient has communicated to the mental health practitioner  
10 a serious threat of physical violence against himself, herself, or  
11 a reasonably identifiable victim or victims.

12           (2) The duty to warn of or to take reasonable precautions  
13 to provide protection from violent behavior shall arise only  
14 under the limited circumstances specified in subsection (1) of  
15 this section. The duty shall be discharged by the mental health  
16 practitioner if reasonable efforts are made to communicate the  
17 threat to the victim or victims and to a law enforcement agency.

18           (3) No monetary liability and no cause of action shall  
19 arise under section ~~71-1,335~~ 753 of this act against a licensee  
20 or certificate holder for information disclosed to third parties  
21 in an effort to discharge a duty arising under subsection (1) of  
22 this section according to the provisions of subsection (2) of this  
23 section.

24           Sec. 755. Section 71-1,337, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~71-1,337~~ The ~~Board of Mental Health Practice~~ board shall  
2 adopt a code of ethics which is essentially in agreement with  
3 the current code of ethics of the national and state associations  
4 of the specialty professions included in mental health practice  
5 and which the board deems necessary to assure adequate protection  
6 of the public in the provision of mental health services to the  
7 public. A violation of the code of ethics shall be considered an  
8 act of unprofessional conduct.

9           The board shall ensure through the code of ethics and  
10 the rules and regulations adopted and promulgated under ~~sections~~  
11 ~~71-1,295 to 71-1,338~~ the Mental Health Practice Act that persons  
12 licensed or certified pursuant to ~~sections 71-1,295 to 71-1,338~~  
13 the act limit their practice to demonstrated areas of competence  
14 as documented by relevant professional education, training, and  
15 experience.

16           Intentional failure by a mental health practitioner to  
17 report known acts of unprofessional conduct by a mental health  
18 practitioner to the department or the board shall be considered an  
19 act of unprofessional conduct and shall be grounds for disciplinary  
20 action under appropriate sections of the ~~Uniform Licensing Law~~  
21 Credentialing Act unless the mental health practitioner has  
22 acquired such knowledge in a professional relationship otherwise  
23 protected by confidentiality.

24           Sec. 756. In addition to the grounds for disciplinary  
25 action found in sections 78 and 79 of this act, a credential

1 subject to the Mental Health Practice Act may be denied, refused  
2 renewal, limited, revoked, or suspended or have other disciplinary  
3 measures taken against it in accordance with section 96 of this act  
4 when the applicant or licensee fails to disclose the information  
5 required by section 741 or 746 of this act.

6           Sec. 757. Section 71-1,132.01, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8           ~~71-1,132.01~~ Sections ~~71-1,132.01~~ ~~to~~ ~~71-1,132.53~~ 757 to  
9 792 of this act shall be known and may be cited as the Nurse  
10 Practice Act.

11           Sec. 758. For purposes of the Nurse Practice Act and  
12 elsewhere in the Uniform Credentialing Act, unless the context  
13 otherwise requires, the definitions found in sections 759 to 768 of  
14 this act apply.

15           Sec. 759. Assigning means appointing or designating  
16 another individual the responsibility for the performance of  
17 nursing interventions.

18           Sec. 760. Board means the Board of Nursing.

19           Sec. 761. Delegating means transferring to another  
20 individual the authority, responsibility, and accountability to  
21 perform nursing interventions.

22           Sec. 762. Directing means managing, guiding, and  
23 supervising the nursing interventions performed by another  
24 individual.

25           Sec. 763. Executive director means the executive director



1 of the board.

2           Sec. 764. License, for purposes of discipline, includes  
3 the multistate licensure privilege to practice granted by the  
4 Nurse Licensure Compact. If the multistate licensure privilege  
5 is restricted due to disciplinary action by the home state, the  
6 department may, upon request by the individual, grant the authority  
7 to practice in this state.

8           Sec. 765. Licensed practitioner means a person lawfully  
9 authorized to prescribe medications or treatments.

10           Sec. 766. Practice of nursing means the performance  
11 for compensation or gratuitously of any act expressing judgment  
12 or skill based upon a systematized body of nursing knowledge.  
13 Such acts include the identification of and intervention in  
14 actual or potential health problems of individuals, families,  
15 or groups, which acts are directed toward maintaining health  
16 status, preventing illness, injury, or infirmity, improving health  
17 status, and providing care supportive to or restorative of life and  
18 well-being through nursing assessment and through the execution of  
19 nursing care and of diagnostic or therapeutic regimens prescribed  
20 by any person lawfully authorized to prescribe. Each nurse is  
21 directly accountable and responsible to the consumer for the  
22 quality of nursing care rendered. Licensed nurses may use the  
23 services of unlicensed individuals to provide assistance with  
24 personal care and activities of daily living.

25           Sec. 767. (1) Practice of nursing by a licensed practical

1 nurse means the assumption of responsibilities and accountability  
2 for nursing practice in accordance with knowledge and skills  
3 acquired through an approved program of practical nursing. A  
4 licensed practical nurse may function at the direction of a  
5 licensed practitioner or a registered nurse.

6 (2) Such responsibilities and performances of acts  
7 must utilize procedures leading to predictable outcomes and must  
8 include, but not be limited to:

9 (a) Contributing to the assessment of the health status  
10 of individuals and groups;

11 (b) Participating in the development and modification of  
12 a plan of care;

13 (c) Implementing the appropriate aspects of the plan of  
14 care;

15 (d) Maintaining safe and effective nursing care rendered  
16 directly or indirectly;

17 (e) Participating in the evaluation of response to  
18 interventions; and

19 (f) Assigning and directing nursing interventions that  
20 may be performed by others and that do not conflict with the Nurse  
21 Practice Act.

22 Sec. 768. (1) The practice of nursing by a registered  
23 nurse means assuming responsibility and accountability for nursing  
24 actions.

25 (2) Nursing actions include, but are not limited to:

- 1           (a) Assessing human responses to actual or potential  
2 health conditions;
- 3           (b) Establishing nursing diagnoses;
- 4           (c) Establishing goals and outcomes to meet identified  
5 health care needs;
- 6           (d) Establishing and maintaining a plan of care;
- 7           (e) Prescribing nursing interventions to implement the  
8 plan of care;
- 9           (f) Implementing the plan of care;
- 10          (g) Teaching health care practices;
- 11          (h) Delegating, directing, or assigning nursing  
12 interventions that may be performed by others and that do not  
13 conflict with the Nurse Practice Act;
- 14          (i) Maintaining safe and effective nursing care rendered  
15 directly or indirectly;
- 16          (j) Evaluating responses to interventions, including, but  
17 not limited to, performing physical and psychological assessments  
18 of patients under restraint and seclusion as required by federal  
19 law, if the registered nurse has been trained in the use of  
20 emergency safety intervention;
- 21          (k) Teaching theory and practice of nursing;
- 22          (l) Conducting, evaluating, and utilizing nursing  
23 research;
- 24          (m) Administering, managing, and supervising the practice  
25 of nursing; and

1           (n) Collaborating with other health professionals in the  
2 management of health care.

3           Sec. 769. Section 71-1,132.07, Revised Statutes  
4 Cumulative Supplement, 2006, is amended to read:

5           ~~71-1,132.07~~ (1) ~~The Board of Nursing is established.~~ The  
6 board shall consist of eight registered nurse members, two licensed  
7 practical nurse members, and two ~~consumer~~ public members. ~~all~~  
8 ~~of whom shall be appointed by the State Board of Health.~~ The  
9 registered nurses on the Board of Nursing board shall be from  
10 the following areas: (a) One practical nurse educator; (b) one  
11 associate degree or diploma nurse educator; (c) one baccalaureate  
12 nurse educator; (d) two nursing service administrators; (e) two  
13 staff nurses; and (f) one advanced practice registered nurse. ~~The~~  
14 ~~nursing service administrators, the staff nurses, and the licensed~~  
15 ~~practical nurses shall be equally~~

16           (2) The State Board of Health shall attempt to ensure  
17 that the membership of the Board of Nursing is representative  
18 of acute care, long-term care, and community-based care. All  
19 congressional districts shall be equally represented on the board,  
20 A minimum of three and a maximum of five members shall be appointed  
21 from each congressional district, and each member shall have been a  
22 bona fide resident of the congressional district from which he or  
23 she is appointed for a period of at least one year prior to the  
24 time of the appointment of such member.

25           ~~(2) The terms of office of all board members shall be~~

1 staggered terms of four years each as the State Board of Health  
2 determines.

3           (3) At the expiration of the term of any member,  
4 the State Board of Health may consult with appropriate nursing  
5 organizations regarding candidates for appointment. Appointments  
6 shall be made on or before December 1 of each year. In order to be  
7 considered for reappointment, a candidate must currently meet all  
8 criteria for initial appointment. Vacancies occurring on the Board  
9 of Nursing shall be filled for the unexpired terms by appointments  
10 made by the State Board of Health. No member shall serve more than  
11 two consecutive terms on the Board of Nursing. Any board member  
12 initially appointed for less than a full term shall be eligible to  
13 serve for two additional consecutive full terms.

14           (4) The State Board of Health shall have power to remove  
15 from office at any time any member of the Board of Nursing, after  
16 a public hearing pursuant to the Administrative Procedure Act, for  
17 physical or mental incapacity to carry out the duties of a board  
18 member, for continued neglect of duty, for incompetency, for acting  
19 beyond the individual member's scope of authority, for malfeasance  
20 in office, for any cause for which a license or certificate in the  
21 member's profession involved may be suspended or revoked, for a  
22 lack of licensure or certification in the member's profession, or  
23 for other sufficient cause.

24           (5) All members of the board are immune from individual  
25 civil liability while acting within the scope of their duties as

1 ~~board members.~~

2 ~~(6) If the entire board, an individual member, or a staff~~  
 3 ~~member is sued, the Attorney General shall appoint an attorney to~~  
 4 ~~represent the involved parties.~~

5 ~~(7) The department shall adopt and promulgate rules and~~  
 6 ~~regulations which establish definitions of conflicts of interest~~  
 7 ~~for members of the board and which establish procedures in the case~~  
 8 ~~such a conflict arises.~~

9 Sec. 770. Section 71-1,132.08, Revised Statutes  
 10 Cumulative Supplement, 2006, is amended to read:

11 ~~71-1,132.08~~ (1) Each licensed practical nurse educator on  
 12 the board shall (a) be a registered nurse currently licensed in  
 13 the state, (b) have graduated with a baccalaureate graduate degree  
 14 in nursing or a related field of study, (c) have had a minimum  
 15 of ~~three~~ five years' experience in administration, teaching, or  
 16 consultation in practical nurse education, and (d) be currently  
 17 employed as a practical nurse educator.

18 (2) Each associate degree or diploma nurse educator on  
 19 the board and the baccalaureate nurse educator on the board shall  
 20 (a) be a registered nurse currently licensed in the state, (b) have  
 21 graduated with a ~~master's~~ graduate degree in nursing, (c) have had  
 22 a minimum of five years' experience in administration, teaching, or  
 23 consultation in nursing education, and (d) be currently employed in  
 24 the field being represented.

25 (3) Each staff nurse on the board shall (a) be a

1 registered nurse currently licensed in the state, (b) have had a  
2 minimum of five years' experience in nursing, and (c) be currently  
3 employed as a staff nurse in the provision of patient care  
4 services.

5 (4) Each nursing service administrator on the board shall  
6 (a) be a registered nurse currently licensed in the state, (b)  
7 have had a minimum of five years' experience in nursing service  
8 administration, and (c) be currently employed in such field.

9 (5) Each licensed practical nurse member shall (a) have  
10 completed at least four years of high school study, (b) be licensed  
11 as a licensed practical nurse in this state, (c) have obtained  
12 a certificate or diploma from a state-approved practical nursing  
13 program, (d) have been actively engaged in practical nursing for at  
14 least five years, and (e) be currently employed in the provision of  
15 patient care services as a licensed practical nurse in the state.

16 (6) Each ~~consumer~~ public member shall ~~(a) not have been~~  
17 ~~involved in providing health care services in this state for at~~  
18 ~~least three years prior to his or her appointment,~~ ~~(b) be of voting~~  
19 ~~age, and (c) be a resident of the state.~~ meet the requirements of  
20 section 65 of this act.

21 (7) The advanced practice registered nurse on the board  
22 shall (a) have a minimum of five years' experience as an advanced  
23 practice registered nurse, (b) be currently employed as an advanced  
24 practice registered nurse, and (c) be licensed as an advanced  
25 practice registered nurse.

1           (8) Members serving on the operative date of this section  
2 may complete their respective terms even if they do not meet  
3 the requirements for appointment as changed by this legislative  
4 bill. ~~For purposes of this section, current employment means~~  
5 ~~having practiced no less than two thousand hours in the two years~~  
6 ~~preceding appointment.~~

7           Sec. 771. Section 71-1,132.31, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9           ~~71-1,132.31~~ (1) The board department shall appoint an  
10 executive director who is a registered nurse currently licensed in  
11 this state and who has a graduate degree in nursing. The executive  
12 director shall have a minimum of five years' experience within  
13 the last ten years in the areas of administration, teaching, or  
14 consultation in the field of nursing. The salary of the executive  
15 director shall be fixed by the department and be competitive with  
16 salaries for similar positions of responsibility which require  
17 similar education and experience. The executive director shall  
18 not be a member of the board. The executive director shall be  
19 administrator of the Nurse Licensure Compact. As administrator, the  
20 executive director shall give notice of withdrawal to the executive  
21 heads of all other party states within thirty days after the  
22 effective date of any statute repealing the compact enacted by the  
23 Legislature pursuant to Article X of the compact. The executive  
24 director serving on the operative date of this section may continue  
25 serving until replaced by the department pursuant to this section.



1           (2) The department shall appoint a practice consultant  
2 and an education consultant, each of whom is a registered nurse  
3 currently licensed in this state and has a minimum of five  
4 years' experience. On and after January 1, 1995, any person newly  
5 appointed to these positions shall also have a graduate degree in  
6 nursing. The salaries for these positions shall be fixed by the  
7 department and be competitive with salaries for similar positions  
8 of responsibility which require similar education. The nursing  
9 education consultant and nursing practice consultant shall not be  
10 members of the board.

11           (3) The department shall appoint one or more nurse  
12 investigators to conduct investigations of violations of the Nurse  
13 Practice Act. Each nurse investigator shall be a registered nurse  
14 currently licensed in this state and have a minimum of five years'  
15 experience in nursing practice. The nurse investigators shall not  
16 be members of the board.

17           Sec. 772. Section 71-1,132.11, Revised Statutes  
18 Cumulative Supplement, 2006, is amended to read:

19           ~~71-1,132.11 The board may adopt, promulgate, and revise,~~  
20 ~~with the approval of the department, such rules and regulations~~  
21 ~~consistent with the Nurse Practice Act as may be necessary to~~  
22 ~~carry the act into effect. All such rules and regulations shall be~~  
23 ~~published and distributed. The In addition to the duties listed in~~  
24 ~~sections 26 and 61 of this act, the board shall:~~

25           (1) Adopt reasonable and uniform standards for nursing

1 practice and nursing education;

2 (2) If requested, issue or decline to issue advisory  
3 opinions defining acts which in the opinion of the board are or  
4 are not permitted in the practice of nursing, ~~as defined in section~~  
5 ~~71-1,132.05~~. Such opinions shall be considered informational only  
6 and are nonbinding. Practice-related information provided by the  
7 board to registered nurses or licensed practical nurses licensed  
8 under the ~~act~~ Nurse Practice Act shall be made available by the  
9 board on request to nurses practicing in this state under a license  
10 issued by a state that is a party to the Nurse Licensure Compact;

11 (3) Establish rules and regulations for approving and  
12 classifying programs preparing nurses, taking into consideration  
13 administrative and organizational patterns, the curriculum,  
14 students, student services, faculty, and instructional resources  
15 and facilities, and provide surveys for each educational program  
16 as determined by the board;

17 (4) Approve educational programs which meet the  
18 requirements of the ~~act~~; Nurse Practice Act;

19 (5) Keep a record of all its proceedings and compile an  
20 annual report for distribution;

21 ~~(6) Establish continuing competency requirements.~~  
22 ~~Continuing education is sufficient to meet continuing competency~~  
23 ~~requirements. The requirements may also include, but not be limited~~  
24 ~~to, one or more of the continuing competency activities listed in~~  
25 ~~section 71-161.09 which a licensee may select as an alternative to~~

1 ~~continuing education;~~

2           ~~(7)~~ (6) Adopt rules and regulations establishing  
3 standards for delegation of nursing activities, including training  
4 or experience requirements, competency determination, and nursing  
5 supervision;

6           ~~(8)~~ Make recommendations in accordance with section  
7 ~~71-168.01~~ regarding licensure and disciplinary dispositions for  
8 individuals who have violated the act and upon the grounds provided  
9 in the Uniform Licensing Law;

10           ~~(9)~~ (7) Collect data regarding nursing;

11           ~~(10)~~ (8) Provide consultation and conduct conferences,  
12 forums, studies, and research on nursing practice and education;

13           ~~(11)~~ (9) Join organizations that develop and regulate the  
14 national nursing licensure examinations and exclusively promote the  
15 improvement of the legal standards of the practice of nursing for  
16 the protection of the public health, safety, and welfare;

17           ~~(12)~~ Appoint special purpose groups or ad hoc groups  
18 to advise the board; (10) Administer the Licensed Practical  
19 Nurse-Certified Practice Act; and

20           ~~(13)~~ (11) Administer the Nurse Licensure Compact. In  
21 reporting information to the coordinated licensure information  
22 system under Article VII of the compact, the department may  
23 disclose personal identifying information about a nurse, including  
24 his or her social security number.

25           Sec. 773. Section 71-1,132.04, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,132.04~~ In the interest of health and morals and  
3 the safeguarding of life, any person practicing or offering to  
4 practice nursing in this state for compensation or gratuitously,  
5 except as provided in section ~~71-1,132.06~~, 774 of this act, shall  
6 submit satisfactory evidence as provided in the Nurse Practice Act  
7 that he or she is qualified to so practice and is licensed as  
8 provided by the act. Except as provided in section ~~71-1,132.06~~, 774  
9 of this act, the practice or attempted practice of nursing, the  
10 holding out or attempted holding out of oneself as a registered  
11 nurse or a licensed practical nurse, or the use of any title,  
12 abbreviation, card, or device to indicate that such a person is  
13 practicing nursing is unlawful unless such person has been duly  
14 licensed and registered according to the provisions of the act. The  
15 practice of nursing by any such unlicensed person or by a nurse  
16 whose license has been suspended, revoked, or expired or is on a  
17 ~~lapsed or~~ inactive status is declared to be a danger to the public  
18 health and welfare.

19 In addition to any other civil, criminal, or disciplinary  
20 remedy, the Attorney General, the board, the county attorney of any  
21 county in which a person is practicing or purporting to practice  
22 nursing without a valid license, or any citizen may, in accordance  
23 with the laws of this state governing injunction, maintain an  
24 action to enjoin that person from practicing nursing until such  
25 person obtains a valid license.

1           An injunction without bond may be obtained by the board  
2 for enforcement of the act.

3           Sec. 774. Section 71-1,132.06, Reissue Revised Statutes  
4 of Nebraska, is amended to read:

5           ~~71-1,132.06~~ The Nurse Practice Act confers no authority  
6 to practice medicine or surgery. The act does not prohibit:

7           (1) Home care provided by parents, foster parents,  
8 family, or friends so long as any such person does not represent or  
9 hold himself or herself out to be a nurse or use any designation in  
10 connection with his or her name which tends to imply that he or she  
11 is licensed to practice under the act;

12           (2) Christian Science nursing consistent with the  
13 theology of Christian Science provided by a Christian Science nurse  
14 who does not hold himself or herself out as a registered nurse or  
15 a licensed practical nurse;

16           (3) Auxiliary patient care services provided by persons  
17 carrying out duties under the direction of a licensed practitioner;

18           (4) Auxiliary patient care services provided by persons  
19 carrying out interventions for the support of nursing service as  
20 delegated by a registered nurse or as assigned and directed by a  
21 licensed practical nurse licensed under the act;

22           (5) The gratuitous rendering of assistance by anyone in  
23 the case of an emergency;

24           (6) Nursing by any legally licensed nurse of any other  
25 state whose engagement requires him or her to (a) accompany and

1 care for a patient temporarily residing in this state during the  
2 period of one such engagement not to exceed six months in length,  
3 (b) transport patients into, out of, or through this state provided  
4 each transport does not exceed twenty-four hours, (c) provide  
5 patient care during periods of transition following transport, (d)  
6 provide educational programs or consultative services within this  
7 state for a period not to exceed fourteen consecutive days if  
8 neither the education nor the consultation includes the provision  
9 or the direction of patient care, and (e) provide nursing care in  
10 the case of a disaster. These exceptions do not permit a person to  
11 represent or hold himself or herself out as a nurse licensed to  
12 practice in this state;

13 (7) Nursing services rendered by a student enrolled in an  
14 approved program of nursing when the services are a part of the  
15 student's course of study; ~~or~~

16 (8) The practice of nursing by any legally licensed nurse  
17 of another state who is ~~employed by the United States Government~~  
18 ~~or any bureau, division, or agency of the United States Government~~  
19 ~~while in the discharge of his or her official duties or, serves in~~  
20 the armed forces of the United States or the United States Public  
21 Health Service or who is employed by the United States Department  
22 of Veterans Affairs or other federal agencies, if the practice is  
23 limited to that service or employment; or

24 (9) The practice of nursing, if permitted by federal law,  
25 as a citizen of a foreign country temporarily residing in Nebraska

1 for a period not to exceed one year for the purpose of postgraduate  
2 study, certified to be such by an appropriate agency satisfactory  
3 to the board.

4 Sec. 775. Section 71-1,132.30, Reissue Revised Statutes  
5 of Nebraska, is amended to read:

6 ~~71-1,132.30~~ (1) The Nurse Practice Act ~~confers no~~  
7 ~~authority to practice medicine or surgery.~~ The act does not  
8 prohibit performance of health maintenance activities by a  
9 designated care aide for a competent adult at the direction of  
10 such adult or at the direction of a caretaker for a minor child  
11 or incompetent adult.

12 (2) Health maintenance activities are those activities  
13 which enable the minor child or adult to live in his or her home  
14 and community. Such activities are those specialized procedures,  
15 beyond activities of daily living, which the minor child or adult  
16 is unable to perform for himself or herself and which the attending  
17 physician or registered nurse determines can be safely performed in  
18 the home and community by a designated care aide as directed by a  
19 competent adult or caretaker.

20 (3) A competent adult is someone who has the capability  
21 and capacity to make an informed decision.

22 (4) For purposes of this section, caretaker means a  
23 person who ~~(1)~~ (a) is directly and personally involved in providing  
24 care for a minor child or incompetent adult and ~~(2)~~ (b) is the  
25 parent, foster parent, family member, friend, or legal guardian of

1 such minor child or incompetent adult.

2           Sec. 776. Section 71-1,132.13, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           ~~71-1,132.13~~ An applicant for a license to practice as  
5 a registered nurse shall file with the department a written  
6 application for a license and submit satisfactory proof that the  
7 applicant is of good moral character, has completed four years of  
8 high school study or its equivalent as determined by the board,  
9 and has completed the basic professional curriculum in and holds a  
10 diploma from an accredited program of registered nursing approved  
11 by the board. There is no minimum age requirement for licensure  
12 as a registered nurse. Graduates of foreign nursing programs  
13 shall pass the Canadian Nurses Association examination or hold a  
14 certificate from the Commission on Graduates of Foreign Nursing  
15 Schools. Such application shall be made upon a form prescribed  
16 and approved by the department, verified by the applicant's oath,  
17 and accompanied by an application fee established and collected  
18 as provided in section 71-162. The application shall include the  
19 applicant's social security number.

20           Sec. 777. Section 71-1,132.37, Reissue Revised Statutes  
21 of Nebraska, is amended to read:

22           ~~71-1,132.37~~ An applicant for a license to practice  
23 as a licensed practical nurse shall file with the department  
24 a written application for a license which shall include the  
25 applicant's social security number, pay the fee established as



1 ~~provided in section 71-162,~~ and submit satisfactory proof that the  
2 applicant:~~(1) Is of good moral character;~~~~(2) Has~~ has completed four  
3 years of high school study or its equivalent as determined by the  
4 board~~;~~ and~~(3) Has~~ has completed the basic curriculum in and holds  
5 a diploma from an approved program of nursing. There is no minimum  
6 age requirement for licensure as a licensed practical nurse.

7           Sec. 778. Section 71-1,132.14, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9           ~~71-1,132.14~~ An applicant for a license as a registered  
10 nurse or as a licensed practical nurse shall pass an examination ~~in~~  
11 ~~such subjects as the board may determine.~~ The department shall give  
12 notice of the time and place of all examinations required by the  
13 Nurse Practice Act. Upon the applicant's passing such examination  
14 and meeting all other requirements for licensure, the department,  
15 upon the recommendation of the board, shall issue to the applicant  
16 a license to practice nursing as a registered nurse or as a  
17 licensed practical nurse. as prescribed by the board in rules and  
18 regulations.

19           Sec. 779. Section 71-1,132.15, Reissue Revised Statutes  
20 of Nebraska, is amended to read:

21           ~~71-1,132.15~~ The department may issue a license to  
22 practice nursing as a registered nurse or as a licensed practical  
23 nurse by endorsement to an applicant who has been duly licensed as  
24 a registered nurse or a licensed practical nurse under the laws of  
25 another state or territory, if in the opinion of the department,

1 upon the recommendation of the board, the applicant meets the  
2 qualifications required of registered nurses or licensed practical  
3 nurses in this state. An applicant for a license as a registered  
4 nurse or a licensed practical nurse based on licensure in another  
5 jurisdiction shall meet the continuing competency requirements as  
6 specified in rules and regulations adopted and promulgated by the  
7 board in addition to the standards set by the board pursuant to  
8 section 26 of this act.

9           Sec. 780. Section 71-1,132.19, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11           ~~71-1,132.19~~ Before recognizing a home state license to  
12 practice nursing issued by a state which is a party to the Nurse  
13 Licensure Compact, the board shall determine that such state's  
14 qualifications for a nursing license are substantially equivalent  
15 to or more stringent than the minimum qualifications for issuance  
16 of a Nebraska license under the Nurse Practice Act.

17           Sec. 781. Section 71-1,132.16, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19           ~~71-1,132.16~~ (1) A temporary permit license to practice  
20 nursing may be issued to:

21           ~~(1)~~ (a) An individual seeking to obtain licensure or  
22 reinstatement of his or her license as a registered nurse or  
23 licensed practical nurse when he or she has not practiced nursing  
24 in the last five years. Such permit A temporary license issued  
25 under this subdivision is valid only for the duration of the review

1 course of study and only for nursing practice required for the  
2 review course of study;

3 ~~(2)~~ (b) Graduates of approved programs of nursing who  
4 have passed the licensure examination, pending the completion  
5 of application for Nebraska licensure as a registered nurse or  
6 licensed practical nurse. Such permit A temporary license issued  
7 under this subdivision is valid for a period not to exceed sixty  
8 days; or

9 ~~(3)~~ (c) Nurses currently licensed in another state as  
10 either a registered nurse or a licensed practical nurse who have  
11 graduated from an educational program approved by the board,  
12 pending completion of application for Nebraska licensure as a  
13 registered nurse or licensed practical nurse. Such permit A  
14 temporary license issued under this subdivision shall be valid  
15 for a period not to exceed sixty days.

16 ~~Temporary permits~~ (2) A temporary license issued pursuant  
17 to this section may be extended by the department, with the  
18 recommendation with the concurrence of the board.

19 (3) An individual holding a temporary permit to practice  
20 nursing on December 1, 2008, shall be deemed to be holding a  
21 temporary license under this section on such date. The permitholder  
22 may continue to practice under such temporary permit as a temporary  
23 license until it would have expired under its terms or after any  
24 period of extension under subsection (2) of this section.

25 Sec. 782. Any licensed practical nurse or registered

1 nurse whose license has been placed on inactive status due to a  
2 change in primary state of residence under the Nurse Licensure  
3 Compact may apply to reinstate his or her license upon (1)  
4 change in primary state of residence back to Nebraska or to  
5 another noncompact state, (2) meeting the continuing competency  
6 requirements, and (3) paying the renewal fee.

7           Sec. 783. The department shall establish and collect fees  
8 for credentialing under the Nurse Practice Act as provided in  
9 sections 51 to 57 of this act.

10           Sec. 784. Section 71-1,132.17, Reissue Revised Statutes  
11 of Nebraska, is amended to read:

12           ~~71-1,132.17~~ (1) In the interest of public safety and  
13 consumer awareness, it is unlawful for any person to use the title  
14 nurse in reference to himself or herself in any capacity, except  
15 individuals who are or have been licensed as a registered nurse or  
16 a licensed practical nurse. A Christian Science nurse may refer to  
17 himself or herself only as a Christian Science nurse.

18           (2) The terms "nurse", "registered nurse", and "licensed  
19 practical nurse" include persons licensed as registered nurses or  
20 licensed practical nurses by a state that is a party to the Nurse  
21 Licensure Compact. Unless the context otherwise indicates or unless  
22 doing so would be inconsistent with the compact, nurses practicing  
23 in this state under a license issued by a state that is a party to  
24 the compact have the same rights and obligations as imposed by the  
25 laws of this state on licensees licensed under the Nurse Practice

1 Act. The department has the authority to determine whether a right  
2 or obligation imposed on licensees applies to nurses practicing  
3 in this state under a license issued by a state that is a party  
4 to the compact, unless that determination is inconsistent with the  
5 compact.

6 Sec. 785. Section 71-1,132.18, Revised Statutes  
7 Cumulative Supplement, 2006, is amended to read:

8 ~~71-1,132.18~~ Any person who holds a license to practice as  
9 a registered nurse in this state has the right to use the title  
10 Registered Nurse and the abbreviation R.N. No other person shall  
11 assume or use such title or abbreviation or any words, letters,  
12 signs, or devices to indicate that the person using the same is  
13 authorized to practice registered nursing.

14 Sec. 786. Section 71-1,132.41, Reissue Revised Statutes  
15 of Nebraska, is amended to read:

16 ~~71-1,132.41~~ Any person who holds a license to practice as  
17 a licensed practical nurse in this state shall have the right to  
18 use the title Licensed Practical Nurse and the abbreviation L.P.N.  
19 No other person shall assume or use such title or abbreviation or  
20 any words, letters, signs, or devices to indicate that the person  
21 using the same is authorized to practice practical nursing in this  
22 state.

23 Sec. 787. Section 71-1,132.38, Reissue Revised Statutes  
24 of Nebraska, is amended to read:

25 ~~71-1,132.38~~ (1) In order to effectuate the transition

1 into compact administration, the board shall require all licensees  
2 entering into or becoming subject to an order of probation or other  
3 disciplinary action that limits practice or requires monitoring  
4 to agree, as of the date of the order, not to practice in any  
5 other state which is a party to the Nurse Licensure Compact during  
6 the term of such probation or disciplinary action without prior  
7 authorization from the other party state.

8 (2) Any licensee subject to disciplinary action, such  
9 as revocation, suspension, probation, or any other action which  
10 affects a licensee's authorization to practice, on the effective  
11 date of entering the compact, is not entitled to a multistate  
12 license privilege while such disciplinary action is in effect  
13 unless practice in another state is authorized by this state and  
14 any other state in which the licensee wishes to practice.

15 Sec. 788. Section 71-1,132.24, Reissue Revised Statutes  
16 of Nebraska, is amended to read:

17 ~~71-1,132.24~~ An institution desiring to conduct a program  
18 of nursing shall apply to the board and submit evidence to the  
19 board that it is prepared to carry out the prescribed basic nursing  
20 curriculum and to meet the other standards established by the Nurse  
21 Practice Act and by the board.

22 Sec. 789. Section 71-1,132.25, Reissue Revised Statutes  
23 of Nebraska, is amended to read:

24 ~~71-1,132.25~~ An application to conduct a program of  
25 nursing shall be made in writing upon a form to be approved

1 and furnished by the board.

2           Sec. 790. Section 71-1,132.26, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           ~~71-1,132.26~~ A survey of the program institution shall be  
5 made by the executive director or other representative appointed  
6 by the board, who shall submit a written report of the survey to  
7 the board. If, in the opinion of the board, the program meets the  
8 requirements for approval, ~~it~~ the board shall approve the program.

9           Sec. 791. Section 71-1,132.27, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11           ~~71-1,132.27~~ The board shall, through ~~its~~ the executive  
12 director or other representative appointed by the board, survey all  
13 programs of nursing in the state at time intervals to be determined  
14 by the board through rules and regulations. Written reports of such  
15 surveys shall be submitted to the board. The board shall act on the  
16 report to grant or deny continuing approval of the program.

17           Sec. 792. Section 71-1,132.28, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19           ~~71-1,132.28~~ If the board determines that any approved  
20 program of nursing is not maintaining the standards required by the  
21 statutes, rules, and regulations, notice in writing, specifying the  
22 defect or defects, shall be immediately given to the program. A  
23 program which fails to correct these conditions to the satisfaction  
24 of the board within a reasonable time shall be discontinued after  
25 hearing.

1           Sec. 793. Section 71-1704, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           ~~71-1704~~ Sections ~~71-1704 to 71-1726.02~~ 793 to 815 of this  
4 act shall be known and may be cited as the Nurse Practitioner  
5 Practice Act.

6           Sec. 794. Section 71-1706, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           ~~71-1706~~ For purposes of the Nurse Practitioner Practice  
9 Act and elsewhere in the Uniform Credentialing Act, unless the  
10 context otherwise requires, the definitions ~~provided~~ found in  
11 sections ~~71-1707 to 71-1717~~ shall 795 to 806 of this act apply.

12          Sec. 795. Section 71-1716.02, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14          ~~71-1716.02~~ Approved certification program means a  
15 certification process for nurse practitioners utilized by an  
16 approved certifying body that (1) requires evidence of completion  
17 of a formal program of study in the nurse practitioner clinical  
18 specialty, (2) requires successful completion of a nationally  
19 recognized certification examination developed by the approved  
20 certifying body, (3) provides an ongoing recertification program,  
21 and (4) is approved by the board.

22          Sec. 796. Section 71-1716.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24          ~~71-1716.01~~ Approved certifying body means a national  
25 certification organization which certifies qualified licensed



1 nurses for advanced practice in a clinical specialty area and  
2 which (1) requires eligibility criteria related to education and  
3 practice, (2) offers an examination in an advanced nursing area  
4 which meets current psychometric guidelines and tests, and (3) is  
5 approved by the board.

6 Sec. 797. Section 71-1717, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 ~~71-1717~~ Approved nurse practitioner program means a  
9 program which:

10 (1) Is a minimum of one full-time academic year or nine  
11 months in length and includes both a didactic component and a  
12 preceptorship of five hundred contact hours;

13 (2) Includes, but is not limited to, instruction in  
14 biological, behavioral, and health sciences relevant to practice as  
15 a nurse practitioner in a specific clinical area; and

16 (3) For the specialties of women's health and neonatal,  
17 grants a post-master certificate, master's degree, or doctoral  
18 degree for all applicants who graduated on or after July 1, 2007,  
19 and for all other specialties, grants a post-master certificate,  
20 master's degree, or doctoral degree for all applicants who  
21 graduated on or after July 19, 1996.

22 Sec. 798. Section 71-1708, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 ~~71-1708~~ Board means the Board of Advanced Practice  
25 Registered Nurses.

1           Sec. 799. Section 71-1709.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-1709.01~~ Boards means the Board of Advanced Practice  
4 Registered Nurses and the Board of Nursing of the State of  
5 Nebraska.

6           Sec. 800. Section 71-1716, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           ~~71-1716~~ Collaboration means a process and relationship  
9 in which a nurse practitioner, together with other health  
10 professionals, delivers health care within the scope of authority  
11 of the various clinical specialty practices.

12          Sec. 801. Section 71-1709.02, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14          ~~71-1709.02~~ Consultation means a process whereby a nurse  
15 practitioner seeks the advice or opinion of a physician or another  
16 health care practitioner.

17          Sec. 802. Section 71-1716.03, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19          ~~71-1716.03~~ (1) Integrated practice agreement means a  
20 written agreement between a nurse practitioner and a collaborating  
21 physician in which the nurse practitioner and the collaborating  
22 physician provide for the delivery of health care through an  
23 integrated practice. The integrated practice agreement shall  
24 provide that the nurse practitioner and the collaborating physician  
25 will practice collaboratively within the framework of their

1     respective scopes of practice. Each provider shall be responsible  
2     for his or her individual decisions in managing the health care of  
3     patients. Integrated practice includes consultation, collaboration,  
4     and referral.

5             (2) The nurse practitioner and the collaborating  
6     physician shall have joint responsibility for patient care, based  
7     upon the scope of practice of each practitioner. The collaborating  
8     physician shall be responsible for supervision of the nurse  
9     practitioner to ensure the quality of health care provided to  
10    patients.

11            (3) For purposes of this section:

12            ~~(1)~~ (a) Collaborating physician means a physician or  
13     osteopathic physician licensed in Nebraska and practicing in the  
14     same geographic area and practice specialty, related specialty, or  
15     field of practice as the nurse practitioner; and

16            ~~(2)~~ (b) Supervision means the ready availability of  
17     the collaborating physician for consultation and direction of  
18     the activities of the nurse practitioner within the nurse  
19     practitioner's defined scope of practice.

20            Sec. 803. Section 71-1712, Reissue Revised Statutes of  
21     Nebraska, is amended to read:

22            ~~71-1712~~ Licensed practitioner means any podiatrist,  
23     dentist, physician, or osteopathic physician licensed to prescribe,  
24     diagnose, and treat as provided in ~~section 71-173, 71-183,~~  
25     ~~71-1,102, or 71-1,137.~~ the Uniform Credentialing Act.

1           Sec. 804. Section 71-1707, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           ~~71-1707~~ Nurse practitioner means a registered nurse ~~who~~  
4 ~~meets the requirements established~~ certified as described in  
5 ~~section 71-1722 and who holds a certificate issued under the~~  
6 ~~Nurse Practitioner Act, 809 of this act and licensed under the~~  
7 Advanced Practice Registered Nurse Practice Act to practice as a  
8 nurse practitioner.

9           Sec. 805. Section 71-1714, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           ~~71-1714~~ Preceptorship means the clinical practice  
12 component of an educational program for the preparation of nurse  
13 practitioners.

14           Sec. 806. Section 71-1716.05, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           ~~71-1716.05~~ Referral means a process whereby a nurse  
17 practitioner directs the patient to a physician or other health  
18 care practitioner for management of a particular problem or aspect  
19 of the patient's care.

20           Sec. 807. Section 71-1721, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           ~~71-1721 (1)~~ ~~Until July 1, 2007,~~ an advanced practice  
23 ~~registered nurse may provide health care services within specialty~~  
24 ~~areas. An advanced practice registered nurse shall function by~~  
25 ~~establishing collaborative, consultative, and referral networks as~~

1 appropriate with other health care professionals. Patients who  
2 require care beyond the scope of practice of an advanced practice  
3 registered nurse shall be referred to an appropriate health care  
4 provider. Advanced practice registered nurse practice means health  
5 promotion, health supervision, illness prevention and diagnosis,  
6 treatment, and management of common health problems and chronic  
7 conditions, including:

8 (a) Assessing patients, ordering diagnostic tests and  
9 therapeutic treatments, synthesizing and analyzing data, and  
10 applying advanced nursing principles,

11 (b) Dispensing, incident to practice only, sample  
12 medications which are provided by the manufacturer and are provided  
13 at no charge to the patient; and

14 (c) Prescribing therapeutic measures and medications  
15 relating to health conditions within the scope of practice. Any  
16 limitation on the prescribing authority of the advanced practice  
17 registered nurse for controlled substances listed in Schedule II  
18 of section 28-405 shall be recorded in the integrated practice  
19 agreement established pursuant to section 71-1716.03.

20 (2) On and after July 1, 2007, a (1) A nurse practitioner  
21 may provide health care services within specialty areas. A  
22 nurse practitioner shall function by establishing collaborative,  
23 consultative, and referral networks as appropriate with other  
24 health care professionals. Patients who require care beyond the  
25 scope of practice of a nurse practitioner shall be referred to an

1 appropriate health care provider.

2 (2) Nurse practitioner practice means health promotion,  
3 health supervision, illness prevention and diagnosis, treatment,  
4 and management of common health problems and chronic conditions,  
5 including:

6 (a) Assessing patients, ordering diagnostic tests and  
7 therapeutic treatments, synthesizing and analyzing data, and  
8 applying advanced nursing principles;

9 (b) Dispensing, incident to practice only, sample  
10 medications which are provided by the manufacturer and are provided  
11 at no charge to the patient; and

12 (c) Prescribing therapeutic measures and medications  
13 relating to health conditions within the scope of practice. Any  
14 limitation on the prescribing authority of the nurse practitioner  
15 for controlled substances listed in Schedule II of section 28-405  
16 shall be recorded in the integrated practice agreement established  
17 pursuant to section ~~71-1716.03.~~ 802 of this act.

18 (3) ~~On and after July 1, 2007,~~ a A nurse practitioner  
19 who has proof of a current certification from an approved  
20 certification program in a psychiatric or mental health specialty  
21 may manage the care of patients committed under the Nebraska  
22 Mental Health Commitment Act. Patients who require care beyond  
23 the scope of practice of a nurse practitioner who has proof of  
24 a current certification from an approved certification program in  
25 a psychiatric or mental health specialty shall be referred to an

1 appropriate health care provider.

2 Sec. 808. Section 71-1726.01, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4 ~~71-1726.01~~ The Nurse Practitioner Practice Act does not  
5 prohibit the performance of activities of a nurse practitioner by  
6 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;

11 (3) By a person enrolled in an approved nurse  
12 practitioner program for the preparation of nurse practitioners as  
13 part of that approved program; and

14 (4) By a person holding a temporary ~~permit~~ license  
15 pursuant to section ~~71-1724.01~~. 810 of this act.

16 Sec. 809. Section 71-1722, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 ~~71-1722 Requirements for certification~~ An applicant for  
19 licensure under the Advanced Practice Registered Nurse Practice Act  
20 as a nurse practitioner shall ~~be the following~~ have:

21 (1) A license as a registered nurse in the State of  
22 Nebraska or the authority based upon the Nurse Licensure Compact to  
23 practice as a registered nurse in Nebraska;

24 ~~(2) A completed application which includes the~~  
25 ~~applicant's social security number;~~

1           ~~(3)~~ A certification fee established and collected as  
2 provided in section 71-162;

3           ~~(4)~~ (2) Evidence of having successfully completed a  
4 graduate-level program in the clinical specialty area of nurse  
5 practitioner practice, which program is accredited by a national  
6 accrediting body;

7           ~~(5)~~ (3) Evidence of having successfully completed thirty  
8 contact hours of education in pharmacotherapeutics;

9           ~~(6)~~ (4) Submission of proof of having passed an  
10 examination pertaining to the specific nurse practitioner role in  
11 nursing adopted or approved by the board with the approval of the  
12 department. Such examination may include any recognized national  
13 credentialing examination for nurse practitioners conducted  
14 by an approved certifying body which administers an approved  
15 certification program; and

16           ~~(7)~~ (5) If more than five years have elapsed since  
17 the completion of the nurse practitioner program or since the  
18 applicant has practiced in the specific nurse practitioner role,  
19 the applicant shall meet the requirements in subdivisions (1)  
20 through ~~(6)~~ (4) of this section and provide evidence of continuing  
21 competency as required by the board, pursuant to section 71-17,135.

22           Sec. 810. Section 71-1724.01, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           ~~71-1724.01~~ The department may grant a temporary permit  
25 license as a nurse practitioner for up to one hundred twenty days



1 upon application:

2 (1) To graduates of an approved nurse practitioner  
3 program pending results of the first credentialing examination  
4 following graduation;

5 (2) ~~For one hundred twenty days to~~ To a nurse  
6 practitioner lawfully authorized to practice in another state  
7 pending completion of the application for a Nebraska ~~certificate,~~  
8 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 December 1, 2008, shall be deemed to be holding a temporary license  
16 under this section on such date. The permitholder may continue to  
17 practice under such temporary permit as a temporary license until  
18 it would have expired under its terms.

19 Sec. 811. Section 71-1724, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 ~~71-1724 Renewal of a certificate~~ To renew a license as a  
22 nurse practitioner, ~~the applicant shall have:~~ shall be at the same  
23 time and in the same manner as renewal of a license as a registered  
24 nurse and shall require:

25 ~~(1) A license as a registered nurse in the State of~~

1 ~~Nebraska or the authority based on the Nurse Licensure Compact to~~  
2 ~~practice as a registered nurse in Nebraska;~~

3 ~~(2) Documentation of continuing competency upon~~  
4 ~~completion of continuing competency activities established by the~~  
5 ~~board pursuant to section 71-17,135;~~

6 ~~(3) (1) Documentation of a minimum of two thousand~~  
7 ~~eighty hours of practice as a nurse practitioner within the~~  
8 ~~five years immediately preceding renewal. These practice hours~~  
9 ~~shall fulfill the requirements of the practice hours required for~~  
10 ~~registered nurse renewal. Practice hours as an advanced practice~~  
11 ~~registered nurse prior to July 1, 2007, shall be used to fulfill~~  
12 ~~the requirements of this section; and~~

13 ~~(4) (2) Proof of current certification in the specific~~  
14 ~~nurse practitioner clinical specialty area by an approved~~  
15 ~~certification program. and~~

16 ~~(5) Payment of a biennial renewal fee established and~~  
17 ~~collected as provided in section 71-162.~~

18 Sec. 812. Section 71-1723.04, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 ~~71-1723.04~~ (1) Nurse practitioners shall maintain in  
21 effect professional liability insurance with such coverage and  
22 limits as may be established by the board.

23 (2) If a nurse practitioner renders services in a  
24 hospital or other health care facility, he or she shall be  
25 subject to the rules and regulations of that facility. Such rules

1 and regulations may include, but need not be limited to, reasonable  
2 requirements that the nurse practitioner and all collaborating  
3 licensed practitioners maintain professional liability insurance  
4 with such coverage and limits as may be established by the hospital  
5 or other health care facility upon the recommendation of the  
6 medical staff.

7           Sec. 813. Section 71-1723.01, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           ~~71-1723.01~~ A person licensed as an advanced practice  
10 registered nurse in this state on July 1, 2007, shall be issued  
11 a license by the department as an advanced practice registered  
12 nurse under the Advanced Practice Registered Nurse Licensure Act  
13 and shall be issued a certificate by the department as a nurse  
14 practitioner under the Nurse Practitioner Act on such date. A  
15 person certified licensed as a nurse practitioner in this state may  
16 use the title nurse practitioner and the abbreviation NP.

17           Sec. 814. Section 71-1723.02, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           ~~71-1723.02~~ (1) A Prior to commencing practice as a nurse  
20 practitioner, an individual (a) who has a master's degree or  
21 doctorate degree in nursing and has completed an approved nurse  
22 practitioner program, (b) who can demonstrate separate course  
23 work in pharmacotherapeutics, advanced health assessment, and  
24 pathophysiology or psychopathology, and (c) who has completed a  
25 minimum of two thousand hours of practice under the supervision

1 of a physician shall ~~(i)~~ submit to the department an integrated  
2 practice agreement with a collaborating physician and ~~(ii)~~ furnish  
3 proof of professional liability insurance required under section  
4 ~~71-1723.04 prior to commencing practice.~~ 812 of this act.

5 (2) A nurse practitioner who needs to obtain the two  
6 thousand hours of supervised practice required under subdivision  
7 (1)(c) of this section shall (a) submit to the department  
8 one or more integrated practice agreements with a collaborating  
9 physician, (b) furnish proof of jointly approved protocols with a  
10 collaborating physician which shall guide the nurse practitioner's  
11 practice, and (c) furnish proof of professional liability insurance  
12 required under section ~~71-1723.04.~~ 812 of this act.

13 (3) If, after a diligent effort to obtain an integrated  
14 practice agreement, a nurse practitioner is unable to obtain an  
15 integrated practice agreement with one physician, the board may  
16 waive the requirement of an integrated practice agreement upon a  
17 showing that the applicant (a) meets the requirements of subsection  
18 (1) of this section, (b) has made a diligent effort to obtain  
19 an integrated practice agreement, and (c) will practice in a  
20 geographic area where there is a shortage of health care services.

21 Sec. 815. Section 71-1723.03, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 ~~71-1723.03~~ Nothing in the Nurse Practitioner Practice  
24 Act shall prohibit a nurse practitioner from consulting or  
25 collaborating with and referring patients to health care providers

1 not included in the nurse practitioner's integrated practice  
2 agreement.

3 Sec. 816. Sections 816 to 840 of this act shall be known  
4 and may be cited as the Nursing Home Administrator Practice Act.

5 Sec. 817. For purposes of the Nursing Home Administrator  
6 Practice Act and elsewhere in the Uniform Credentialing Act, unless  
7 the context otherwise requires, the definitions found in sections  
8 818 to 831 of this act apply.

9 Sec. 818. Accredited institution means a postsecondary  
10 educational institution approved by the board.

11 Sec. 819. Administrator or nursing home administrator  
12 means any individual who meets the education and training  
13 requirements of section 834 of this act and is responsible for  
14 planning, organizing, directing, and controlling the operation of a  
15 nursing home or an integrated system or who in fact performs such  
16 functions, whether or not such functions are shared by one or more  
17 other persons. Notwithstanding this section or any other provision  
18 of law, the administrator of an intermediate care facility for  
19 the mentally retarded may be either a licensed nursing home  
20 administrator or a qualified mental retardation professional.

21 Sec. 820. Administrator-in-training means a person who is  
22 undergoing training to become a nursing home administrator and is  
23 directly supervised in a nursing home by a certified preceptor.

24 Sec. 821. Board means the Board of Nursing Home  
25 Administration.

1           Sec. 822. Certified preceptor means a person who is  
2 currently licensed by the State of Nebraska as a nursing home  
3 administrator, has three years of experience as a nursing home  
4 administrator, has practiced within the last two years in a  
5 nursing home, and is approved by the department to supervise an  
6 administrator-in-training or a person in a mentoring program.

7           Sec. 823. Core educational requirements means courses  
8 necessary for licensure as a nursing home administrator and  
9 includes courses in patient care and services, social services,  
10 financial management, administration, and rules, regulations, and  
11 standards relating to the operation of a health care facility.

12          Sec. 824. Degree or advanced degree means a  
13 baccalaureate, master's, or doctorate degree from an accredited  
14 institution and which includes studies in the core educational  
15 requirements.

16          Sec. 825. Degree or advanced degree in health care  
17 means a baccalaureate, master's, or doctorate degree from an  
18 accredited institution in health care, health care administration,  
19 or services.

20          Sec. 826. Integrated system means a health and human  
21 services organization offering different levels of licensed care or  
22 treatment on the same premises.

23          Sec. 827. Internship means that aspect of the educational  
24 program of the associate degree in long-term care administration  
25 which allows for practical experience in a nursing home and occurs

1 under the supervision of a certified preceptor.

2           Sec. 828. Nursing degree means a degree or diploma in  
3 nursing from an accredited program of nursing approved by the Board  
4 of Nursing.

5           Sec. 829. Nursing home or home for the aged or infirm  
6 means any institution or facility licensed as a nursing facility or  
7 a skilled nursing facility by the department pursuant to the Health  
8 Care Facility Licensure Act, whether proprietary or nonprofit,  
9 including, but not limited to, homes for the aged or infirm owned  
10 or administered by the federal or state government or an agency or  
11 political subdivision thereof.

12           Sec. 830. Previous work experience means at least two  
13 years working full time in a nursing home or previous work  
14 experience in health care administration.

15           Sec. 831. Previous work experience in health care  
16 administration means at least two years working full time as an  
17 administrator or director of nursing of a hospital with a long-term  
18 care unit or assisted-living facility or director of nursing in a  
19 nursing home.

20           Sec. 832. Section 71-6065, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           71-6065 (1) ~~The Board of Examiners in Nursing Home~~  
23 ~~Administration is created. The board shall be under the supervision~~  
24 ~~of the department and~~ board ~~shall consist of a designated~~  
25 ~~representative of the Policy Cabinet described in section 81-3009~~

1 ~~and the following seven professional members and two public members~~  
2 ~~appointed by the State Board of Health pursuant to section 58 of~~  
3 ~~this act. The members shall meet the requirements of sections 64~~  
4 ~~and 65 of this act.~~

5 (2) The professional members shall consist of: (a) Two  
6 members who hold active licenses and are currently employed in  
7 the management, operation, or ownership of proprietary homes for  
8 the aged or infirm or nursing homes that serve the aged or infirm  
9 in Nebraska; (b) two members who hold active licenses and are  
10 currently employed in the management or operation of a nonprofit  
11 home for the aged or infirm or nursing home or hospital caring  
12 for chronically ill or infirm, aged patients; (c) one member who  
13 is a member of the faculty of a college or university located in  
14 the state who is actively engaged in a teaching program relating  
15 to business administration, social work, gerontology, or some other  
16 aspect of the administration of health care facilities; (d) one  
17 member who is a licensed physician and surgeon with a demonstrated  
18 interest in long-term care; and (e) one member who is a licensed  
19 registered nurse. ~~and (f) two members who are laypersons, at~~  
20 ~~least the age of majority, residents of this state for at least~~  
21 ~~five years preceding appointment, and representative of consumer~~  
22 ~~viewpoints. The members of the board shall serve as members of such~~  
23 ~~board until the expiration of their respective terms or until their~~  
24 ~~successors have been appointed and qualified. Each appointed member~~  
25 ~~who is an administrator shall be licensed pursuant to sections~~



1 ~~71-6053 to 71-6068.~~

2           ~~(2) The appointed members shall be appointed for terms of~~  
3 ~~three years, and the terms shall be staggered so that the terms of~~  
4 ~~three appointed members of the board expire each year. The term of~~  
5 ~~each member shall commence on the first day of December following~~  
6 ~~the expiration of the term of the member whom such person succeeds.~~  
7 ~~A vacancy in any appointive position on the board shall be filled~~  
8 ~~for the unexpired portion of the term by appointment by the State~~  
9 ~~Board of Health in the same manner as original appointments are~~  
10 ~~made. Appointed members shall serve until their successors are~~  
11 ~~appointed and qualified.~~

12           ~~(3) The State Board of Health shall have power to remove~~  
13 ~~from office at any time any member of the board after a public~~  
14 ~~hearing pursuant to the Administrative Procedure Act for physical~~  
15 ~~or mental incapacity to carry out the duties of a board member, for~~  
16 ~~continued neglect of duty, for incompetency, for acting beyond the~~  
17 ~~individual member's scope of authority, for malfeasance in office,~~  
18 ~~for any cause for which a license may be suspended or revoked, or~~  
19 ~~for a lack of licensure.~~

20           ~~(4) The department shall adopt and promulgate rules and~~  
21 ~~regulations which establish definitions of conflicts of interest~~  
22 ~~for members of the board and which establish procedures in the case~~  
23 ~~such a conflict arises.~~

24           Sec. 833. Section 71-6062, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~71-6062~~ Each home for the aged or infirm or nursing  
2 home within the state shall be operated under the supervision of  
3 an administrator duly licensed in the manner provided in ~~sections~~  
4 ~~71-6053 to 71-6068.~~ the Nursing Home Administrator Practice Act.  
5 If there is a vacancy in the position of licensed administrator  
6 of a nursing home, the owner, governing body, or other appropriate  
7 authority of the nursing home may select a person to apply for a  
8 provisional license in nursing home administration to serve as the  
9 administrator of such facility.

10           Sec. 834. Section 71-6054, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           ~~71-6054 (1)(a)~~ (1) The ~~board~~ department shall issue a  
13 license to an applicant who submits ~~(i)~~ (a) satisfactory evidence  
14 of completion of ~~(A)~~ (i) an associate degree which includes the  
15 core educational requirements and an administrator-in-training  
16 program under a certified preceptor, ~~(B)~~ (ii) a degree or  
17 an advanced degree and a mentoring program under a certified  
18 preceptor, ~~(C)~~ (iii) a nursing degree, previous work experience  
19 in health care administration, and a mentoring program under a  
20 certified preceptor, ~~(D)~~ (iv) a degree or an advanced degree  
21 in health care and previous work experience in health care  
22 administration, or ~~(E)~~ (v) an associate degree which includes  
23 the core educational requirements, previous work experience,  
24 and a mentoring program under a certified preceptor, ~~(ii)~~ and  
25 (b) evidence of successful passage of the National Association

1 of Boards of Examiners for Nursing Home Administration written  
2 examination, ~~and (iii) his or her social security number.~~

3 (2) The board department shall license administrators  
4 in accordance with sections 71-6053 to 71-6068 the Nursing Home  
5 Administrator Practice Act and standards, rules, and regulations  
6 adopted and promulgated by the board pursuant to such sections.  
7 department, with the recommendation of the board. The license shall  
8 not be transferable or assignable.

9 (3) Each administrator shall be responsible for  
10 and oversee the operation of only one licensed facility or  
11 one integrated system, except that an administrator may make  
12 application to the board department for approval to be responsible  
13 for and oversee the operations of a maximum of three licensed  
14 facilities if such facilities are located within two hours' travel  
15 time of each other or to act in the dual role of administrator  
16 and department head but not in the dual role of administrator  
17 and director of nursing. In reviewing the application, the board  
18 department may consider the proximity of the facilities and  
19 the number of licensed beds in each facility. An administrator  
20 responsible for and overseeing the operations of any integrated  
21 system is subject to disciplinary action against his or her license  
22 for any regulatory violations within each system.

23 ~~(b)~~ (4) (a) Notwithstanding the provisions of sections  
24 71-6053 to 71-6068, the Nursing Home Administrator Practice  
25 Act, the board department shall issue a license as a nursing

1 home administrator to an applicant who will function as the  
2 administrator of a facility caring primarily for persons with head  
3 injuries and associated disorders who submits satisfactory evidence  
4 that he or she (i) has at least two years of experience working  
5 with persons with head injuries or severe physical disabilities,  
6 at least one of which was spent in an administrative capacity,  
7 (ii) is (A) a psychologist with at least a master's degree  
8 in psychology from an accredited college or university and has  
9 specialized training or one year of experience working with persons  
10 with traumatic head injury or severe physical disability, (B) a  
11 physician licensed under the Uniform ~~Licensing Law~~ Credentialing  
12 Act to practice medicine and surgery or psychiatry and has  
13 specialized training or one year of experience working with persons  
14 with traumatic head injury or severe physical disability, (C)  
15 an educator with at least a master's degree in education from  
16 an accredited college or university and has specialized training  
17 or one year of experience working with persons with traumatic  
18 head injury or severe physical disability, or (D) a certified  
19 social worker, a certified master social worker, or a licensed  
20 mental health practitioner certified or licensed under the Uniform  
21 ~~Licensing Law~~ Credentialing Act and has at least three years of  
22 social work or mental health practice experience and specialized  
23 training or one or more years of experience working with persons  
24 who have experienced traumatic head injury or are severely  
25 physically disabled, and (iii) is of good moral character. The

1 applicant shall also provide his or her social security number.

2 (b) A license issued pursuant to this ~~subdivision~~  
3 subsection shall be issued without examination and without the  
4 requirement of completion of an administrator-in-training or  
5 mentoring program. Such license may be renewed without the  
6 completion of any continuing competency requirements.

7 ~~(2) Licenses may be denied, suspended, limited, refused~~  
8 ~~renewal, or revoked by the department for due cause which~~  
9 ~~shall include: (a) Fraud in procuring a license; (b) immoral,~~  
10 ~~unprofessional, or dishonorable conduct; (c) habitual intoxication~~  
11 ~~or addiction to the use of drugs; (d) distribution of intoxicating~~  
12 ~~liquors or drugs for other than lawful purposes; (e) conviction~~  
13 ~~of a felony; (f) physical or mental incapacity to perform~~  
14 ~~professional duties; (g) violation of any provision of sections~~  
15 ~~71-6053 to 71-6068 or standards, rules, and regulations adopted~~  
16 ~~and promulgated thereunder or of any law or standards, rules, and~~  
17 ~~regulations adopted and promulgated by the department relating to~~  
18 ~~the proper administration and management of a home for the aged~~  
19 ~~or infirm or nursing home; (h) commission of any of the acts or~~  
20 ~~offenses set forth in sections 71-147 and 71-148; and (i) failure~~  
21 ~~to pay the required fees. Except in cases of failure to pay the~~  
22 ~~required fees, no license shall be denied, suspended, limited,~~  
23 ~~refused renewal, or revoked except after due notice and opportunity~~  
24 ~~for a hearing. Disciplinary actions and proceedings shall be~~  
25 ~~conducted as specified in the Uniform Licensing Law. Any denial,~~

1 ~~suspension, limitation, refusal of renewal, or revocation of such~~  
2 ~~license may be appealed, and the appeal shall be in accordance~~  
3 ~~with the Administrative Procedure Act. A person whose license~~  
4 ~~has been revoked, suspended, or limited may petition the board~~  
5 ~~for reinstatement in the manner provided by sections 71-161.04 to~~  
6 ~~71-161.06.~~

7           Sec. 835. Section 71-6055, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-6055 (1) Except as provided in subdivisions  
10 ~~(1)(a)(i)(D) and (1)(b)~~ subdivision (1)(a)(iv) and subsection  
11 (4) of section 71-6054, 834 of this act, in order for a person  
12 to become licensed as a nursing home administrator, he or she  
13 shall complete an administrator-in-training program or a mentoring  
14 program. The administrator-in-training program shall occur in a  
15 ~~home for the aged or infirm or~~ nursing home under the direct  
16 supervision of a certified preceptor, and it may be gained as  
17 an internship which is part of an approved associate degree. A  
18 mentoring program shall occur in a ~~home for the aged or infirm~~  
19 ~~or~~ nursing home under the supervision of a certified preceptor.  
20 The certified preceptor in a mentoring program need not be at  
21 such facility during the period of such supervision but shall  
22 be available to assist with questions or problems as needed. A  
23 mentoring program may be gained as an internship which is part of  
24 a degree or advanced degree. A person in a mentoring program may  
25 apply for a provisional license as provided in section ~~71-6063.~~

1 838 of this act.

2 (2) An applicant may begin his or her  
3 administrator-in-training or mentoring program upon application to  
4 the ~~board~~ department with the required fee, evidence that he or  
5 she has completed at least fifty percent of the core educational  
6 requirements, and evidence of an agreement between the certified  
7 preceptor and the applicant for at least six hundred forty hours of  
8 training and experience, to be gained in not less than four months.  
9 Such training shall occur in a Nebraska-licensed ~~home for the aged~~  
10 ~~or infirm or~~ nursing home under a certified preceptor.

11 (3) The certified preceptor shall submit a report to  
12 the department by the fifth day of each month for the duration  
13 of the administrator-in-training or mentoring program, describing  
14 the nature and extent of training completed to date. At the  
15 conclusion of the program, the certified preceptor shall report to  
16 the department whether the applicant has successfully completed the  
17 board's approved course for such program. With the concurrence of  
18 the certified preceptor, the applicant may remain in such program  
19 until successfully completed or may reapply to enter another  
20 administrator-in-training or mentoring program.

21 (4) (a) The administrator-in-training or mentoring program  
22 shall occur under the supervision of a certified preceptor. An  
23 applicant to become a certified preceptor shall (i) be currently  
24 licensed as a nursing home administrator in the State of Nebraska,  
25 (ii) have three years of experience as a nursing home administrator

1 in the five years immediately preceding certification, and (iii)  
2 complete a preceptor training course approved by the board.

3 ~~(b)(i)~~ (b) All preceptor certificates shall expire on  
4 December 31 of every fourth year beginning December 31, 2000. The  
5 procedures for renewal shall be in the same manner as section  
6 71-6061. Each certified preceptor shall, in the period since his  
7 or her certificate was issued or last renewed, complete at least  
8 twelve hours of preceptor training approved by the board. Each  
9 certified preceptor shall submit evidence, on forms provided by  
10 the department, that he or she has satisfied the requirements of  
11 this subsection before his or her certificate is renewed. Such  
12 evidence shall be submitted at the time application for renewal  
13 of a certificate is made. Before acting on the an application for  
14 renewal, the board shall review the performance of the applicant.  
15 Such review may include consideration of survey and complaint  
16 information, student evaluations, and any other related information  
17 deemed relevant by the board. The board may deny the an application  
18 for renewal upon a finding that the applicant's performance has  
19 been unsatisfactory based on such review.

20 ~~(ii)~~ When any certificate holder fails, within thirty  
21 days of the expiration of a certificate, to submit the twelve  
22 hours of preceptor training, the department shall revoke such  
23 certificate after notice and opportunity for hearing. In order for  
24 a preceptor certification to be reinstated, the applicant must meet  
25 the requirements of this subsection.



1           Sec. 836. Section 71-6056, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-6056~~ The ~~board~~ department may issue a license to any  
4 person who holds a current nursing home administrator license from  
5 another jurisdiction and is at least nineteen years old.

6           Sec. 837. Section 71-6058, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~71-6058~~ Any person desiring to take the examination  
9 for a nursing home administrator license shall ~~apply~~ to the  
10 board at least thirty days prior to examination on a form  
11 provided by the department and sworn to by the applicant.  
12 Such application shall be accompanied by the examination fee  
13 and such documents and affidavits as are necessary to show  
14 the eligibility of the candidates to take such examination.  
15 An applicant may request to take the next regularly scheduled  
16 examination any time after receiving notification of registration  
17 as an administrator-in-training or a person in a mentoring program,  
18 but the license shall not be issued until the board receives  
19 documentation of completion of the administrator-in-training or  
20 mentoring program and completion of all licensure requirements.

21           Sec. 838. Section 71-6063, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           ~~71-6063~~ (1) If there is a vacancy in the position of  
24 licensed administrator of a home for the aged or infirm or nursing  
25 home, the owner, governing body, or other appropriate authority of

1 the home for the aged or infirm or nursing home may select a A  
2 person selected to apply for a provisional license in nursing home  
3 administration to serve as the administrator of such facility shall  
4 apply to the department. Such license, if issued, shall be valid  
5 for no more than one hundred eighty calendar days and may be issued  
6 to an individual not otherwise qualified for licensure as a nursing  
7 home administrator in order to maintain the daily operations of the  
8 facility and may not be renewed. The ~~board~~ department may grant  
9 an extension not to exceed ninety days if the person seeking the  
10 provisional license is in a mentoring program.

11 (2) The ~~board~~ department may issue a provisional license  
12 to an individual who has applied for a mentoring program.  
13 Such provisional license will allow the applicant to serve as  
14 administrator in the specified facility for one hundred eighty  
15 calendar days and may not be renewed. The board may grant an  
16 extension not to exceed ninety days if the person seeking the  
17 provisional license is in a mentoring program.

18 (3) An applicant for a provisional license under this  
19 section shall: (a) Be at least twenty-one years of age; (b) be  
20 employed on a full-time basis of not less than forty hours per week  
21 to perform the duties of the nursing home administrator; and (c)  
22 have no history of unprofessional conduct or denial or disciplinary  
23 action against a nursing home administrator license or a license  
24 to practice any other profession by any lawful licensing authority.  
25 ~~for reasons outlined in subsection (2) of section 71-6054.~~

1           Sec. 839. Section 71-6060, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-6060 (1) Except as provided in subdivision (1)(b)~~  
4 ~~of section 71-6054, each administrator holding an active license~~  
5 ~~shall, on or before December 31 of each even-numbered year,~~  
6 ~~complete continuing competency activities as required by the board~~  
7 ~~pursuant to section 71-6067 as a prerequisite for the Nebraska~~  
8 ~~licensee's next subsequent biennial license renewal. Each licensee~~  
9 ~~shall document as required by the department that he or she has~~  
10 ~~complied with the requirements set forth in this section during~~  
11 ~~the preceding two-year period. Each licensee shall be responsible~~  
12 ~~for maintaining in his or her personal files records of compliance~~  
13 ~~with the continuing competency requirements. Licensees who have~~  
14 ~~not complied with such requirements shall not be issued a renewal~~  
15 ~~license unless exempt for any of the following reasons:~~

16           ~~(a) The licensee served in the regular armed forces~~  
17 ~~of the United States during any part of the twenty-four months~~  
18 ~~immediately preceding the Nebraska license renewal date;~~

19           ~~(b) The licensee submits proof that he or she was~~  
20 ~~suffering from a serious or disabling illness or physical~~  
21 ~~disability which prevented his or her compliance with the~~  
22 ~~continuing competency requirements preceding the Nebraska license~~  
23 ~~renewal date;~~

24           ~~(c) The licensee was first licensed within the~~  
25 ~~twenty-four months immediately preceding the Nebraska license~~

1 ~~renewal date, or~~

2           ~~(d) The licensee did not reside in Nebraska during~~  
3 ~~the twenty-four months immediately preceding the Nebraska license~~  
4 ~~renewal date.~~

5           ~~(2) An individual licensed pursuant to sections 71-6053~~  
6 ~~to 71-6068 may request to have his or her license placed on~~  
7 ~~inactive status upon its expiration. The request shall be submitted~~  
8 ~~to the department in writing, along with payment of the inactive~~  
9 ~~status fee. The department shall notify the licensee in writing of~~  
10 ~~the acceptance or denial of such request. If placed on inactive~~  
11 ~~status, the license may remain in such status for an indefinite~~  
12 ~~period of time. An inactive license may be placed on active~~  
13 ~~status upon completion by the licensee of all continuing competency~~  
14 ~~requirements in effect at the time of such request and payment of~~  
15 ~~the license renewal fee then due.~~

16           ~~(3) Providers of continuing competency activities or~~  
17 ~~licensees may submit courses for review and approval by the board.~~  
18 ~~Each provider or licensee applying for approval of continuing~~  
19 ~~competency activities shall pay an application fee established and~~  
20 ~~collected as provided in section 71-162 for each program, seminar,~~  
21 ~~or course submitted for review.~~

22           Sec. 840. The department shall establish and collect fees  
23 for credentialing under the Nursing Home Administrator Practice Act  
24 as provided in sections 51 to 57 of this act.

25           Sec. 841. Section 71-6101, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-6101~~ Sections ~~71-6101 to 71-6123~~ 841 to 871 of this  
 3 act shall be known and may be cited as the Occupational Therapy  
 4 Practice Act.

5 Sec. 842. Section 71-6102, Reissue Revised Statutes of  
 6 Nebraska, is amended to read:

7 ~~71-6102~~ In order to (1) safeguard the public health,  
 8 safety, and welfare, (2) protect the public from being misled by  
 9 incompetent, unscrupulous, and unauthorized persons, (3) assure the  
 10 highest degree of professional conduct on the part of occupational  
 11 therapists and occupational therapy assistants, and (4) assure  
 12 the availability of occupational therapy services of high quality  
 13 to persons in need of such services, it is the purpose of the  
 14 Occupational Therapy Practice Act to provide for the regulation of  
 15 occupational therapists.

16 Sec. 843. Section 71-6103, Revised Statutes Cumulative  
 17 Supplement, 2006, is amended to read:

18 ~~71-6103~~ For purposes of the Occupational Therapy Practice  
 19 Act and elsewhere in the Uniform Credentialing Act, unless the  
 20 context otherwise requires, the definitions found in sections 844  
 21 to 854 of this act apply. ÷

22 ~~(1) Active license means the license of a person who is~~  
 23 ~~acting, practicing, functioning, and working in compliance with the~~  
 24 ~~requirements of a license;~~

25 ~~(2) Association means a recognized national or state~~

1 ~~association for occupational therapy;~~

2 ~~(3) Board means the Board of Occupational Therapy~~  
3 ~~Practice established by section 71-6115;~~

4 ~~(4) Credentialing means the process of obtaining state~~  
5 ~~approval to provide health care services or human services or to~~  
6 ~~change aspects of a current approval and includes, but is not~~  
7 ~~limited to, granting permission to use a protected title that~~  
8 ~~signifies that a person is qualified to provide the services within~~  
9 ~~the scope of practice of a profession;~~

10 ~~(5) Deep thermal agent modalities means therapeutic~~  
11 ~~ultrasound and phonophoresis. Deep thermal agent modalities does~~  
12 ~~not include the use of diathermy or lasers;~~

13 ~~(6) Department means the Department of Health and Human~~  
14 ~~Services Regulation and Licensure;~~

15 ~~(7) Electrotherapeutic agent modalities means~~  
16 ~~neuromuscular electrical stimulation, transcutaneous electrical~~  
17 ~~nerve stimulation, and iontophoresis. Electrotherapeutic agent~~  
18 ~~modalities does not include the use of ultraviolet light;~~

19 ~~(8) Mechanical devices means intermittent compression~~  
20 ~~devices. Mechanical devices does not include devices to perform~~  
21 ~~spinal traction;~~

22 ~~(9) Occupational therapist means a person holding an~~  
23 ~~active license to practice occupational therapy;~~

24 ~~(10)(a) Occupational therapy means the use of purposeful~~  
25 ~~activity with individuals who are limited by physical injury~~

1 or illness, psychosocial dysfunction, developmental or learning  
2 disabilities, or the aging process in order to maximize independent  
3 function, prevent further disability, and achieve and maintain  
4 health and productivity.

5 (b) Occupational therapy encompasses evaluation,  
6 treatment, and consultation and may include (i) remediation  
7 or restoration of performance abilities that are limited due  
8 to impairment in biological, physiological, psychological, or  
9 neurological processes, (ii) adaptation of task, process, or the  
10 environment, or the teaching of compensatory techniques, in order  
11 to enhance performance, (iii) disability prevention methods and  
12 techniques which facilitate the development or safe application  
13 of performance skills, and (iv) health promotion strategies and  
14 practices which enhance performance abilities;

15 (11) Occupational therapy aide means a person who is  
16 not licensed by the board and who provides supportive services to  
17 occupational therapists and occupational therapy assistants;

18 (12) Occupational therapy assistant means a person  
19 holding an active license to assist in the practice of occupational  
20 therapy;

21 (13) Physical agent modalities means modalities that  
22 produce a biophysiological response through the use of water,  
23 temperature, sound, electricity, or mechanical devices; and

24 (14) Superficial thermal agent modalities means hot  
25 packs, cold packs, ice, fluidotherapy, paraffin, water, and

1 ~~other commercially available superficial heating and cooling~~  
2 ~~technologies.~~

3           Sec. 844. Association means a recognized national or  
4 state association for occupational therapy.

5           Sec. 845. Board means the Board of Occupational Therapy  
6 Practice.

7           Sec. 846. Deep thermal agent modalities means therapeutic  
8 ultrasound and phonophoresis. Deep thermal agent modalities does  
9 not include the use of diathermy or lasers.

10           Sec. 847. Electrotherapeutic agent modalities means  
11 neuromuscular electrical stimulation, transcutaneous electrical  
12 nerve stimulation, and iontophoresis. Electrotherapeutic agent  
13 modalities does not include the use of ultraviolet light.

14           Sec. 848. Mechanical devices means intermittent  
15 compression devices. Mechanical devices does not include devices  
16 to perform spinal traction.

17           Sec. 849. Occupational therapist means a person holding a  
18 current license to practice occupational therapy.

19           Sec. 850. (1) Occupational therapy means the use of  
20 purposeful activity with individuals who are limited by physical  
21 injury or illness, psychosocial dysfunction, developmental or  
22 learning disabilities, or the aging process in order to maximize  
23 independent function, prevent further disability, and achieve and  
24 maintain health and productivity.

25           (2) Occupational therapy encompasses evaluation,



1 treatment, and consultation and may include (a) remediation  
2 or restoration of performance abilities that are limited due  
3 to impairment in biological, physiological, psychological, or  
4 neurological processes, (b) adaptation of task, process, or the  
5 environment, or the teaching of compensatory techniques, in order  
6 to enhance performance, (c) disability prevention methods and  
7 techniques which facilitate the development or safe application  
8 of performance skills, and (d) health promotion strategies and  
9 practices which enhance performance abilities.

10           Sec. 851. Occupational therapy aide means a person who  
11 is not licensed under the Occupational Therapy Practice Act and  
12 who provides supportive services to occupational therapists and  
13 occupational therapy assistants.

14           Sec. 852. Occupational therapy assistant means a person  
15 holding a current license to assist in the practice of occupational  
16 therapy.

17           Sec. 853. Physical agent modalities means modalities that  
18 produce a biophysiological response through the use of water,  
19 temperature, sound, electricity, or mechanical devices.

20           Sec. 854. Superficial thermal agent modalities means  
21 hot packs, cold packs, ice, fluidotherapy, paraffin, water, and  
22 other commercially available superficial heating and cooling  
23 technologies.

24           Sec. 855. Section 71-6115, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

1           ~~71-6115~~ The Board of Occupational Therapy Practice is  
2 established. The board shall consist of at least four members  
3 appointed by the State Board of Health, all of whom shall be  
4 residents of this state. Any statewide association of occupational  
5 therapists may submit a list of names of qualified persons from  
6 which the State Board of Health may choose members of the Board of  
7 Occupational Therapy Practice. pursuant to section 58 of this act.  
8 Three of the persons appointed shall have been engaged in rendering  
9 services to the public, teaching, or research in occupational  
10 therapy for at least five years immediately preceding their  
11 appointments. Two of the persons appointed shall be occupational  
12 therapists and one shall be either an occupational therapist or an  
13 occupational therapy assistant and all shall be holders of active  
14 licenses issued under the Occupational Therapy Practice Act during  
15 their terms. The fourth member shall be a member of the public with  
16 an interest in the rights of the consumers of health services. The  
17 members of the board shall serve five-year terms, except that the  
18 initial members of the board shall serve as follows: The member of  
19 the public shall serve one year and the remaining members shall  
20 serve terms of two, three, and four years as the State Board of  
21 Health shall designate. The term of each member shall commence  
22 on December 1 following the expiration of the preceding term. No  
23 person shall serve more than two full consecutive terms on the  
24 board. The State Board of Health shall fill any vacancy for an  
25 unexpired term in the same manner as the initial appointment. The

1 members shall not receive compensation but shall be reimbursed for  
2 their actual expenses incurred while in the performance of their  
3 duties in the same manner as state employees pursuant to sections  
4 81-1174 to 81-1177. The board shall annually elect a chairperson  
5 and such other officers as it deems necessary and shall meet at  
6 least once per year or more as the department and board shall  
7 determine. Members of the board may be removed from office on  
8 the grounds and in the manner provided by section 71-118. One  
9 of the persons appointed shall be a public member who meets the  
10 requirements of section 65 of this act.

11 Sec. 856. Section 71-6104, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 ~~71-6104~~ No person may represent himself or herself to be  
14 a licensed occupational therapist or occupational therapy assistant  
15 unless he or she is licensed in accordance with the Occupational  
16 Therapy Practice Act. Nothing in such act shall be construed to  
17 prevent:

18 (1) Any person licensed in this state pursuant to ~~Chapter~~  
19 ~~71~~ the Uniform Credentialing Act from engaging in the profession or  
20 occupation for which he or she is licensed;

21 (2) The activities and services of any person employed  
22 as an occupational therapist or occupational therapy assistant ~~by~~  
23 who serves in the armed forces, of the United States or the United  
24 States Public Health Service or who is employed by the United  
25 States Department of Veterans Affairs, or the United States Public

1 Health Service if such person provides occupational therapy solely  
2 under the direction or control of the organization by which he or  
3 she is employed, or other federal agencies, if their practice is  
4 limited to that service or employment;

5 (3) The activities and services of any person pursuing  
6 an accredited course of study leading to a degree or certificate  
7 in occupational therapy if such activities and services constitute  
8 a part of a supervised course of study and if such a person is  
9 designated by a title which clearly indicates his or her status as  
10 a student or trainee;

11 (4) The activities and services of any person fulfilling  
12 the supervised fieldwork experience requirements of sections  
13 71-6106 and 71-6107 858 and 859 of this act if such activities and  
14 services constitute a part of the experience necessary to meet the  
15 requirements of such sections; or

16 (5) Qualified members of other professions or  
17 occupations, including, but not limited to, recreation specialists  
18 or therapists, special education teachers, independent living  
19 specialists, work adjustment trainers, caseworkers, and persons  
20 pursuing courses of study leading to a degree or certification  
21 in such fields, from doing work similar to occupational therapy  
22 which is consistent with their training if they do not represent  
23 themselves by any title or description to be occupational  
24 therapists.

25 Sec. 857. Section 71-6105, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-6105~~ Any person who has applied to take the  
3 examination under section ~~71-6106~~ ~~or 71-6107~~ 858 or 859 of this act  
4 and who has completed the education and experience requirements of  
5 the Occupational Therapy Practice Act may be granted a temporary  
6 ~~permit~~ license to practice as an occupational therapist or an  
7 occupational therapy assistant. A temporary ~~permit~~ license shall  
8 allow the person to practice only in association with a licensed  
9 occupational therapist and shall be valid until the date on which  
10 the results of the next licensure examination are available to  
11 the department. The temporary ~~permit~~ license shall not be renewed  
12 if the applicant has failed the examination. The ~~permit~~ temporary  
13 license may be extended ~~at the discretion~~ by the department,  
14 with the recommendation of the board, ~~with the approval of the~~  
15 ~~department.~~ In no case may a temporary ~~permit~~ license be extended  
16 beyond one year.

17           An individual holding a temporary permit on December 1,  
18 2008, shall be deemed to be holding a temporary license under the  
19 Occupational Therapy Practice Act on such date. The permitholder  
20 may continue to practice under such temporary permit as a temporary  
21 license until it would have expired under its terms.

22           Sec. 858. Section 71-6106, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           ~~71-6106~~ (1) An applicant applying for a license as an  
25 occupational therapist shall ~~file a written application,~~ which

1 ~~shall include the applicant's social security number,~~ in the manner  
2 ~~and on forms provided by the department,~~ showing show to the  
3 satisfaction of the department that he or she:

4 (a) Has successfully completed the academic requirements  
5 of an educational program in occupational therapy recognized  
6 by the department and accredited by a nationally recognized  
7 medical association or nationally recognized occupational therapy  
8 association;

9 (b) Has successfully completed a period of supervised  
10 fieldwork experience at an educational institution approved by the  
11 department and where the applicant's academic work was completed or  
12 which is part of a training program approved by such educational  
13 institution. A minimum of six months of supervised fieldwork  
14 experience shall be required for an occupational therapist; and

15 (c) Has passed an examination as provided in section  
16 ~~71-6108,~~ 860 of this act.

17 (2) Residency in this state shall not be a requirement of  
18 licensure. A corporation, partnership, limited liability company,  
19 or association shall not be licensed as an occupational therapist  
20 pursuant to the Occupational Therapy Practice Act.

21 Sec. 859. Section 71-6107, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-6107~~ (1) An applicant applying for a license as an  
24 occupational therapy assistant shall ~~file a written application in~~  
25 ~~the manner and on forms provided by the department,~~ showing show to

1 the satisfaction of the department that he or she:

2 (a) Has successfully completed the academic requirements  
3 of an educational program in occupational therapy recognized  
4 by the department and accredited by a nationally recognized  
5 medical association or nationally recognized occupational therapy  
6 association;

7 (b) Has successfully completed a period of supervised  
8 fieldwork experience at an educational institution approved by the  
9 department and where the applicant's academic work was completed or  
10 which is part of a training program approved by such educational  
11 institution. A minimum of two months of supervised fieldwork  
12 experience shall be required for an occupational therapy assistant;  
13 and

14 (c) Has passed an examination as provided in section  
15 ~~71-6108.~~ 860 of this act.

16 (2) Residency in this state shall not be a requirement  
17 of licensure as an occupational therapy assistant. A corporation,  
18 partnership, limited liability company, or association shall not  
19 be licensed as an occupational therapy assistant pursuant to the  
20 Occupational Therapy Practice Act.

21 Sec. 860. Section 71-6108, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-6108~~ (1) Each applicant for licensure pursuant to  
24 the Occupational Therapy Practice Act shall be examined by a  
25 written examination which tests his or her knowledge of the

1 basic and clinical sciences relating to occupational therapy  
2 and occupational therapy theory and practice including, but not  
3 limited to, professional skills and judgment in the utilization of  
4 occupational therapy techniques and methods and such other subjects  
5 as the board may deem useful to determine the applicant's fitness  
6 to practice. The board shall approve the examination and establish  
7 standards for acceptable performance. The board may choose a  
8 nationally standardized occupational therapist and occupational  
9 therapy assistant entry-level examination.

10 (2) Applicants for licensure shall be examined at a time  
11 and place and under such supervision as the board may determine.  
12 The board shall notify all applicants by mail of the time and place  
13 of the examination.

14 ~~(3) The department may adopt and promulgate rules and~~  
15 ~~regulations to provide for the review of procedures for the~~  
16 ~~development and administration of examinations and to protect the~~  
17 ~~security of the content of examination questions and answers.~~  
18 ~~The department shall not enter into an agreement to adopt~~  
19 ~~an examination from a national testing service without first~~  
20 ~~obtaining from that service detailed documentation of the process~~  
21 ~~of examination development and maintenance.~~

22 Sec. 861. Section 71-6113, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 71-6113 (1)(a) Licenses issued under the Occupational  
25 Therapy Practice Act shall be subject to biennial renewal and shall



1 expire August 1 of each even-numbered year unless renewed in the  
2 manner provided by section 71-110 upon completion of the continuing  
3 competency activities as required under subsection (2) of this  
4 section and upon payment of the renewal fee established as provided  
5 in section 71-162.

6 (b) A licensee whose license is revoked for nonpayment  
7 of the biennial renewal fee as provided in section 71-110 may be  
8 reinstated upon the recommendation of the board and the payment of  
9 the required fees established as provided in section 71-162, except  
10 that no reinstatement of a license may be granted more than five  
11 years after its expiration.

12 (2)(a) Each Nebraska-licensed occupational therapist in  
13 active practice within the State of Nebraska shall, on or before  
14 August 1 of each even-numbered year, complete continuing competency  
15 activities as required by the board as a prerequisite to renewal of  
16 his or her license.

17 (b) Each Nebraska-licensed occupational therapy assistant  
18 in active practice within the State of Nebraska shall, on or before  
19 August 1 of each even-numbered year, complete continuing competency  
20 activities as required by the board as a prerequisite to renewal of  
21 his or her license.

22 (3) Every occupational therapist and occupational therapy  
23 assistant shall provide documentation of completing such continuing  
24 competency activities as required by the board.

25 The board shall biennially select, in a random manner, a

1 ~~representative sample of the license renewal applications for audit~~  
2 ~~of compliance with continuing competency requirements.~~

3           ~~(4)~~ The department, ~~on~~ with the recommendation of the  
4 board, may waive continuing competency requirements, in part or  
5 in total, for any two-year licensing period when a licensee  
6 submits documentation that circumstances beyond his or her control  
7 prevented completion of such requirements as provided in section 46  
8 of this act. Such In addition to circumstances determined by the  
9 department to be beyond the licensee's control pursuant to such  
10 section, such circumstances shall include situations in which:

11           ~~(a)~~ (1) The licensee holds a Nebraska license but does  
12 not reside or practice in Nebraska;

13           ~~(b)~~ The licensee has served in the regular armed forces  
14 of the United States during part of the ~~twenty-four~~ months  
15 immediately preceding the license renewal date;

16           ~~(c)~~ (2) The licensee has submitted proof that he or  
17 she was suffering from a serious or disabling illness or physical  
18 disability which prevented completion of the required continuing  
19 competency activities during the twenty-four months preceding the  
20 license renewal date; and

21           ~~(d)~~ The licensee has been initially licensed by the board  
22 within the ~~twenty-four~~ months immediately preceding the license  
23 renewal date; and

24           ~~(e)~~ (3) The licensee has successfully completed two or  
25 more semester hours of formal credit instruction biennially offered

1 by an accredited school or college which contributes to meeting  
2 the requirements of an advanced degree in a postgraduate program  
3 relating to occupational therapy.

4           Sec. 862. An applicant for licensure to practice as an  
5 occupational therapist who has met the education and examination  
6 requirements in section 858 of this act or to practice as an  
7 occupational therapy assistant who has met the education and  
8 examination requirements in section 859 of this act, who passed the  
9 examination more than three years prior to the time of application  
10 for licensure, and who is not practicing at the time of application  
11 for licensure shall present proof satisfactory to the department  
12 that he or she has within the three years immediately preceding  
13 the application for licensure completed continuing competency  
14 requirements approved by the board pursuant to section 45 of  
15 this act.

16           Sec. 863. An applicant for licensure to practice as an  
17 occupational therapist or to practice as an occupational therapy  
18 assistant who has met the standards set by the board pursuant to  
19 section 26 of this act for a license based on licensure in another  
20 jurisdiction but is not practicing at the time of application  
21 for licensure shall present proof satisfactory to the department  
22 that he or she has within the three years immediately preceding  
23 the application for licensure completed continuing competency  
24 requirements approved by the board pursuant to section 45 of  
25 this act.

1           Sec. 864. Section 71-6114, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-6114~~ The department shall establish and collect  
4 fees for credentialing activities under the Occupational Therapy  
5 Practice Act as provided in ~~section 71-162,~~ sections 51 to 57 of  
6 this act.

7           Sec. 865. Section 71-6117, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           ~~71-6117~~ An occupational therapy aide shall function under  
10 the guidance and responsibility of an occupational therapist and  
11 may be supervised by an occupational therapist or an occupational  
12 therapy assistant for specifically selected routine tasks for which  
13 the aide has been trained and has demonstrated competence. The aide  
14 shall comply with supervision requirements developed by the board.  
15 The board shall develop supervision requirements for aides which  
16 are consistent with prevailing professional standards.

17           Sec. 866. Section 71-6118, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           ~~71-6118~~ An occupational therapist may perform the  
20 following services:

21           (1) Evaluate, develop, improve, sustain, or restore  
22 skills in activities of daily living, work activities, or  
23 productive activities, including instrumental activities of daily  
24 living, and play and leisure activities;

25           (2) Evaluate, develop, remediate, or restore

1 sensorimotor, cognitive, or psychosocial components of performance;

2 (3) Design, fabricate, apply, or train in the use of  
3 assistive technology or orthotic devices and train in the use of  
4 prosthetic devices;

5 (4) Adapt environments and processes, including the  
6 application of ergonomic principles, to enhance performance and  
7 safety in daily life roles;

8 (5) If certified pursuant to section ~~71-6122~~, 870 of  
9 this act, apply physical agent modalities as an adjunct to or  
10 in preparation for engagement in occupations when applied by  
11 a practitioner who has documented evidence of possessing the  
12 theoretical background and technical skills for safe and competent  
13 use;

14 (6) Evaluate and provide intervention in collaboration  
15 with the client, family, caregiver, or others;

16 (7) Educate the client, family, caregiver, or others in  
17 carrying out appropriate nonskilled interventions; and

18 (8) Consult with groups, programs, organizations, or  
19 communities to provide population-based services.

20 Sec. 867. Section 71-6119, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 ~~71-6119~~ An occupational therapy assistant may deliver  
23 occupational therapy services enumerated in section ~~71-6118~~ 866 of  
24 this act in collaboration with and under the supervision of an  
25 occupational therapist.

1           Sec. 868. Section 71-6120, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           ~~71-6120~~ (1) An occupational therapist may accept a  
4 referral from a licensed health care professional for the purpose  
5 of evaluation and rehabilitative treatment which may include,  
6 but not be limited to, consultation, rehabilitation, screening,  
7 prevention, and patient education services.

8           (2) Referrals may be for an individual case or may be for  
9 an established treatment program that includes occupational therapy  
10 services. If programmatic, the individual shall meet the criteria  
11 for admission to the program and protocol for the treatment program  
12 shall be established by the treatment team members.

13           (3) Referrals shall be in writing, except that oral  
14 referrals may be accepted if they are followed by a written and  
15 signed request of the person making the referral within thirty days  
16 after the day on which the patient consults with the occupational  
17 therapist.

18           Sec. 869. Section 71-6121, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           ~~71-6121~~ The public may have direct access to occupational  
21 therapy services.

22           Sec. 870. Section 71-6122, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           ~~71-6122~~ (1) In order to apply physical agent modalities,  
25 an occupational therapist shall be certified pursuant to

1 this section. The department shall issue a certificate to an  
2 occupational therapist to administer a physical agent modality if  
3 the occupational therapist:

4 (a) Has successfully completed a training course approved  
5 by the board and passed an examination approved by the board on the  
6 physical agent modality;

7 (b) Is certified as a hand therapist by the Hand Therapy  
8 Certification Commission or other equivalent entity recognized by  
9 the board;

10 (c) Has a minimum of five years of experience in the  
11 use of the physical agent modality and has passed an examination  
12 approved by the board on the physical agent modality; or

13 (d) Has completed education during a basic educational  
14 program which included demonstration of competencies for  
15 application of the physical agent modality.

16 (2) The department shall issue a certificate to authorize  
17 an occupational therapy assistant to set up and implement treatment  
18 using superficial thermal agent modalities if the occupational  
19 therapy assistant has successfully completed a training course  
20 approved by the board and passed an examination approved by the  
21 board. Such set up and implementation shall only be done under  
22 the onsite supervision of an occupational therapist certified to  
23 administer superficial thermal agent modalities.

24 (3) An occupational therapist shall not delegate  
25 evaluation, reevaluation, treatment planning, and treatment goals

1 for physical agent modalities to an occupational therapy assistant.

2 Sec. 871. Section 71-6123, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4 ~~71-6123~~ (1) The department, with the approval of the  
5 board, shall adopt and promulgate rules and regulations necessary  
6 to administer the Occupational Therapy Practice Act to protect the  
7 public health, safety, and welfare and to insure, to the greatest  
8 extent possible, the efficient, adequate, and safe practice of  
9 occupational therapy. (2) The rules and regulations shall include  
10 (a) definitions of unprofessional conduct, (b) definitions of  
11 conflicts of interest for members of the board and procedures in  
12 the case such a conflict arises, (c) regarding role delineation  
13 for occupational therapy assistants, and (d) continuing competency  
14 requirements. Continuing education is sufficient to meet continuing  
15 competency requirements. Such requirements may also include, but  
16 not be limited to, one or more of the continuing competency  
17 activities listed in section ~~71-161.09~~ 45 of this act which  
18 a licensed person may select as an alternative to continuing  
19 education.

20 (3) ~~Except as provided in subsection (4) of this section,~~  
21 ~~the department, with the approval of the board, shall adopt and~~  
22 ~~promulgate rules and regulations to implement Laws 2004, LB 1005,~~  
23 ~~and shall provide for the changes regarding scope of practice to~~  
24 ~~be implemented for licensees as soon as the rules and regulations~~  
25 ~~become effective.~~



1           ~~(4)~~ (2) The board may adopt and promulgate rules and  
2 regulations governing the training courses for an occupational  
3 therapist to be certified to administer a physical agent modality.  
4 The board may adopt and promulgate rules and regulations governing  
5 the training course for an occupational therapy assistant to  
6 be certified to set up and implement superficial thermal agent  
7 modalities. In adopting such rules and regulations, the board  
8 shall give consideration to the levels of training and experience  
9 which are required, in the opinion of the board, to protect the  
10 public health, safety, and welfare and to insure, to the greatest  
11 extent possible, the efficient, adequate, and safe practice of  
12 occupational therapy. Such rules and regulations shall include  
13 the approval of examinations and the passing score for such  
14 examinations for certification. Any person who was practicing as  
15 ~~(a) an occupational therapist and administering physical agent~~  
16 ~~modalities or (b) an occupational therapy assistant setting up and~~  
17 ~~implementing superficial thermal agent modalities prior to July~~  
18 ~~16, 2004, may continue to administer such modalities until July~~  
19 ~~1, 2006. After July 1, 2006, any person who wishes to administer~~  
20 ~~such modalities shall obtain certification as provided by section~~  
21 ~~71-6122.~~

22           ~~(5)~~ Rules and regulations adopted and promulgated  
23 pursuant to the Occupational Therapy Practice Act prior to July 16,  
24 2004, shall continue in effect until revised, amended, repealed, or  
25 nullified pursuant to law.

1           Sec. 872. Sections 872 to 896 of this act shall be known  
2 and may be cited as the Optometry Practice Act.

3           Sec. 873. Section 71-1,135.05, Reissue Revised Statutes  
4 of Nebraska, is amended to read:

5           ~~71-1,135.05~~ The Legislature finds and declares:

6           (1) That the scope of teaching and practice of optometry  
7 has changed and that it is in the public interest that any person  
8 seeking initial licensure as an optometrist and having graduated  
9 from an accredited optometry school after August 25, 1989, in  
10 addition to any other requirements of the Uniform ~~Licensing Law,~~  
11 Credentialing Act, demonstrate adequate knowledge and training in  
12 all areas of the practice of optometry as defined in ~~section~~  
13 ~~71-1,133~~ and satisfactorily complete the educational requirements  
14 set forth in ~~71-1,135.02,~~ sections 885 to 887 of this act; and

15           (2) That it is in the public interest that no optometrist  
16 licensed pursuant to the Uniform ~~Licensing Law~~ Credentialing Act  
17 use pharmaceutical agents for diagnostic or therapeutic purposes  
18 unless he or she has taken the examination prescribed in section  
19 ~~71-1,135~~ 880 of this act after August 25, 1989, or unless he or she  
20 is certified pursuant to ~~section 71-1,135.02.~~ sections 885 to 887  
21 of this act.

22           Sec. 874. For purposes of the Optometry Practice Act  
23 and elsewhere in the Uniform Credentialing Act, unless the context  
24 otherwise requires, the definitions found in sections 875 to 877 of  
25 this act apply.

1           Sec. 875. Board means the Board of Optometry.

2           Sec. 876. Section 71-1,135.01, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           ~~71-1,135.01 For purposes of the Uniform Licensing Law,~~  
5 ~~unless the context otherwise requires.~~

6           (1) Pharmaceutical agents, for diagnostic purposes, means  
7 anesthetics, cycloplegics, and mydriatics. ~~and~~

8           (2) Pharmaceutical agents, for therapeutic purposes,  
9 means topical ophthalmic pharmaceutical agents which treat eye  
10 diseases, infection, inflammation, and superficial abrasions, or  
11 oral analgesics, including oral analgesics enumerated in Schedules  
12 III and IV of section 28-405 necessary to treat conditions of the  
13 eye, ocular adnexa, or visual system, or oral pharmaceutical agents  
14 for the treatment of diseases or infections of the eye, ocular  
15 adnexa, or visual system, or oral anti-inflammatory agents to treat  
16 conditions of the eye, ocular adnexa, or visual system, excluding  
17 steroids and immunosuppressive agents.

18           Sec. 877. Section 71-1,133, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           ~~71-1,133 For purposes of the Uniform Licensing Law, the~~

21 (1) The practice of optometry means one or a combination of the  
22 following, without the use of surgery:

23           ~~(1)~~ (a) The examination of the human eye to diagnose,  
24 treat, or refer for consultation or treatment any abnormal  
25 condition of the human eye, ocular adnexa, or visual system;

1           ~~(2)~~ (b) The employment of instruments, devices,  
 2 pharmaceutical agents, other than oral therapeutic agents used in  
 3 the treatment of glaucoma, and procedures intended for the purpose  
 4 of investigating, examining, diagnosing, treating, managing, or  
 5 correcting visual defects or abnormal conditions of the human eye,  
 6 ocular adnexa, or visual system or for the removal of superficial  
 7 eyelid, conjunctival, and corneal foreign bodies and the ordering  
 8 of procedures and laboratory tests rational to the diagnosis of  
 9 conditions or diseases of the human eye, ocular adnexa, or visual  
 10 system; or

11           ~~(3)~~ (c) The prescribing and application of lenses,  
 12 devices containing lenses, prisms, contact lenses, ophthalmic  
 13 devices excluding laser surgery, orthoptics, vision training,  
 14 pharmaceutical agents, and prosthetic devices to correct, relieve,  
 15 or treat defects or abnormal conditions of the human eye, ocular  
 16 adnexa, or visual system.

17           (2) The practice of optometry does not include the  
 18 treatment of infantile/congenital glaucoma which means the  
 19 condition is present at birth.

20           Sec. 878. The board shall consist of four members,  
 21 including three licensed optometrists and one public member.

22           Sec. 879. Section 71-1,134, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

24           ~~71-1,134~~ The practice of optometry ~~under sections~~  
 25 ~~71-1,133 to 71-1,136.09~~ shall not be construed to:

1           (1) Include merchants or dealers who sell glasses as  
2 merchandise in an established place of business or who sell  
3 contact lenses from a prescription for contact lenses written by an  
4 optometrist or a person licensed to practice medicine and surgery  
5 and who do not profess to be optometrists or practice optometry; as  
6 defined in section 71-1,133;

7           (2) Restrict, expand, or otherwise alter the scope of  
8 practice governed by other statutes; or

9           (3) Include the performance by an optometric assistant,  
10 under the supervision of a licensed optometrist, of duties  
11 prescribed in accordance with rules and regulations adopted and  
12 promulgated by the department, with the ~~upon~~ recommendation of the  
13 ~~Board of Optometry.~~ board.

14           Sec. 880. Section 71-1,135, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           ~~71-1,135~~ Every applicant for a license to practice  
17 optometry shall: (1) Present proof that he or she is a graduate  
18 of an accredited school or college of optometry; and (2) pass an  
19 examination approved by the ~~Board of Optometry.~~ board. After August  
20 25, 1989, the examination shall cover all subject matter included  
21 in the practice of optometry ~~as defined in section 71-1,133~~ for  
22 applicants who have graduated from an accredited optometry school  
23 after such date. After October 1, 1997, the examination shall  
24 cover all subject matter included in the practice of optometry for  
25 applicants who have graduated from an accredited optometry school

1 after such date.

2           Sec. 881. In addition to the standards set by the board  
 3 pursuant to section 26 of this act, an applicant for licensure  
 4 based on a license in another state or territory of the United  
 5 States or the District of Columbia must have been actively engaged  
 6 in the practice of optometry for at least one of the three years  
 7 immediately preceding the application for licensure in Nebraska.

8           Sec. 882. Section 71-1,135.04, Reissue Revised Statutes  
 9 of Nebraska, is amended to read:

10           ~~71-1,135.04~~ In issuing a license or renewal, the Board of  
 11 Optometry department, with the recommendation of the board, shall  
 12 state whether such person licensed in the practice of optometry  
 13 has been certified to use pharmaceutical agents pursuant to section  
 14 ~~71-1,135.02~~ 885, 886, or 887 of this act and shall determine  
 15 an appropriate means to further identify those persons who are  
 16 certified in the diagnostic use of such agents as provided in  
 17 subdivision ~~(2)~~ (1)(b) of section ~~71-1,133~~ 877 of this act or  
 18 therapeutic use of such agents as provided in subdivision ~~(2)~~ ~~or~~  
 19 ~~(3)~~ (1)(b) or (c) of section ~~71-1,133~~ 877 of this act.

20           Sec. 883. Section 71-1,136.01, Reissue Revised Statutes  
 21 of Nebraska, is amended to read:

22           ~~71-1,136.01~~ Each Nebraska-licensed optometrist in active  
 23 practice within the State of Nebraska shall, on or before August  
 24 1 of each even-numbered year, complete continuing competency  
 25 activities as required by the Board of Optometry pursuant to

1 ~~section 71-161.09 as a prerequisite for the licensee's next~~  
2 ~~subsequent license renewal.~~

3 The department, with the recommendation of the board,  
4 may waive continuing competency requirements, in part or in  
5 total, for any two-year licensing period when a credential holder  
6 submits documentation that circumstances beyond his or her control  
7 prevented completion of such requirements as provided in section  
8 46 of this act. In addition to circumstances determined by the  
9 department to be beyond the credential holder's control pursuant to  
10 such section, such circumstances shall include situations in which:

11 (1) The credential holder has submitted proof that he or  
12 she was suffering from a serious or disabling illness or physical  
13 disability which prevented completion of the required continuing  
14 competency activities during the twenty-four months preceding the  
15 renewal date; and

16 (2) The credential holder was initially licensed within  
17 the twenty-six months immediately preceding the renewal date.

18 Sec. 884. The department shall establish and collect fees  
19 for credentialing under the Optometry Practice Act as provided in  
20 sections 51 to 57 of this act.

21 Sec. 885. Section 71-1,135.02, Reissue Revised Statutes  
22 of Nebraska, is amended to read:

23 71-1,135.02 (1)(a) (1) No optometrist licensed in  
24 this state, except an optometrist who has been certified by  
25 the department prior to April 30, 1987, or by another state

1 with substantially equivalent requirements for certification as  
 2 determined by the ~~department upon recommendation of the Board of~~  
 3 ~~Optometry board~~ to use topical ocular pharmaceutical agents for  
 4 diagnostic purposes prior to April 30, 1987, shall use topical  
 5 ocular pharmaceutical agents for diagnostic purposes authorized  
 6 under subdivision ~~(2)~~ (1)(b) of section ~~71-1,133~~ 877 of this act  
 7 unless such person ~~(i)~~ (a) submits to the ~~board~~ the required  
 8 fee and department evidence of satisfactory completion of a  
 9 pharmacology course at an institution accredited by a regional or  
 10 professional accrediting organization which is recognized by the  
 11 United States Department of Education, (b) and approved by the  
 12 ~~Department of Health and Human Services Regulation and Licensure,~~  
 13 ~~(ii)~~ passes an examination approved by the ~~department,~~ board, and  
 14 ~~(iii)~~ (c) has been certified by the ~~department upon~~ Department  
 15 of Health and Human Services Regulation and Licensure, with the  
 16 recommendation of the board, as qualified to use topical ocular  
 17 pharmaceutical agents for diagnostic purposes.

18 ~~(b)~~ (2) The ~~department~~ board may approve for  
 19 certification pursuant to subdivision ~~(1)(a)(i)~~ (1)(a) of this  
 20 section a pharmacology course if such course includes:

21 ~~(i)~~ (a) A study of ocular anesthetics, mydriatics,  
 22 cycloplegics, ocular toxicity of pharmaceutical agents, ocular  
 23 allergies of ocular agents, and pharmacologic effects of ocular  
 24 drug substances;

25 ~~(ii)~~ (b) The consideration of the mechanism of action



1 of anesthetics, cycloplegics, and mydriatics in human beings and  
2 the uses of such substances in the diagnosis of occurring ocular  
3 disorders;

4 ~~(iii)~~ (c) At least one hundred hours of classroom  
5 education, clinical training, and examination; and

6 ~~(iv)~~ (d) The correlation of the utilization of  
7 pharmaceutical agents and optical instrumentation and procedures.

8 ~~(e)~~ (3) The department board may approve for  
9 certification pursuant to subdivision ~~(1)(a)(ii)~~ (1)(b) of this  
10 section an examination if such examination is:

11 ~~(i)~~ (a) Based upon the competencies taught in a  
12 pharmacology course; and

13 ~~(ii)~~ (b) Administered by an institution accredited by  
14 a regional or professional accrediting organization which is  
15 recognized by the United States Department of Education, and  
16 approved by the Department of Health and Human Services Regulation  
17 and Licensure.

18 ~~(2)(a)~~ No optometrist licensed in this state on or after  
19 April 30, 1987, shall use topical ocular pharmaceutical agents for  
20 therapeutic purposes authorized under subdivision ~~(3)~~ of section  
21 71-1,133 unless such person ~~(i)~~ submits to the board the required  
22 fee and evidence of satisfactory completion of a minimum of one  
23 hundred hours since January 1, 1984, of which forty hours shall be  
24 classroom education and sixty hours shall be supervised clinical  
25 training as it applies to optometry with particular emphasis

1 on the examination, diagnosis, and treatment of the eye, ocular  
2 adnexa, and visual system offered by a school or college approved  
3 by the department, (ii) passes an examination approved by the  
4 department, (iii) has been certified by the department upon the  
5 recommendation of the board to use topical ocular pharmaceutical  
6 agents for therapeutic purposes, and (iv) has been certified by  
7 the department upon the recommendation of the board to use topical  
8 ocular pharmaceutical agents for diagnostic purposes.

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

- 16 (i) Review of general pharmacology and therapeutics,  
17 (ii) Review of ocular therapeutic pharmacology,  
18 (iii) Diagnosis and treatment of diseases of the eye,  
19 ocular adnexa, and visual system,  
20 (iv) Diagnosis of corneal disease and trauma including  
21 corneal foreign bodies,  
22 (v) Diagnosis and treatment of anterior segment eye  
23 diseases,  
24 (vi) Clinical procedures related to the diagnosis and  
25 treatment of the eye, ocular adnexa, and visual system.

1           ~~(vii) Ocular manifestations of systemic disease,~~  
2           ~~(viii) Review of systemic disease syndromes,~~  
3           ~~(ix) Ocular therapy including management of acute~~  
4           ~~systemic emergencies, and~~

5           ~~(x) Consultation criteria in ocular disease and trauma.~~

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

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

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

1 ~~treatment and management of glaucoma.~~

2           Sec. 886. (1) No optometrist licensed in this state on  
3 or after April 30, 1987, shall use topical ocular pharmaceutical  
4 agents for therapeutic purposes authorized under subdivision (1) (c)  
5 of section 877 of this act unless such person (a) submits to the  
6 department evidence of satisfactory completion of a minimum of one  
7 hundred hours since January 1, 1984, of which forty hours shall be  
8 classroom education and sixty hours shall be supervised clinical  
9 training as it applies to optometry with particular emphasis on the  
10 examination, diagnosis, and treatment of the eye, ocular adnexa,  
11 and visual system offered by a school or college approved by the  
12 board, (b) passes an examination approved by the board, (c) has  
13 been certified by the department, with the recommendation of the  
14 board, to use topical ocular pharmaceutical agents for therapeutic  
15 purposes, and (d) has been certified by the department, with the  
16 recommendation of the board, to use topical ocular pharmaceutical  
17 agents for diagnostic purposes.

18           (2) The board may approve for certification pursuant to  
19 subdivision (1) (a) of this section a therapeutic course or courses  
20 of instruction, from an institution accredited by a regional or  
21 professional accrediting organization which is recognized by the  
22 United States Department of Education, that have been completed  
23 after January 1, 1984. Such course or courses shall include, but  
24 not be limited to:

25           (a) Review of general pharmacology and therapeutics;

- 1           (b) Review of ocular therapeutic pharmacology;
- 2           (c) Diagnosis and treatment of diseases of the eye,  
3 ocular adnexa, and visual system;
- 4           (d) Diagnosis of corneal disease and trauma including  
5 corneal foreign bodies;
- 6           (e) Diagnosis and treatment of anterior segment eye  
7 diseases;
- 8           (f) Clinical procedures related to the diagnosis and  
9 treatment of the eye, ocular adnexa, and visual system;
- 10           (g) Ocular manifestations of systemic disease;
- 11           (h) Review of systemic disease syndromes;
- 12           (i) Ocular therapy including management of acute systemic  
13 emergencies; and
- 14           (j) Consultation criteria in ocular disease and trauma.
- 15           Sec. 887. (1) An optometrist who is licensed and  
16 certified to use pharmaceutical agents for therapeutic purposes  
17 on July 15, 1998, who graduated from an accredited school of  
18 optometry prior to January 1, 1996, shall complete the educational  
19 requirements relative to the treatment of glaucoma, as approved  
20 by the board, prior to January 1, 2000, and shall complete  
21 such educational requirements prior to treating glaucoma. Failure  
22 to complete such education prior to January 1, 2000, shall  
23 result in the revocation of the licensee's certification to use  
24 pharmaceutical agents for therapeutic purposes.
- 25           (2) An optometrist who applies for licensure on or

1 after July 15, 1998, who graduated from an accredited school of  
2 optometry prior to January 1, 1996, shall complete the educational  
3 requirements relative to the treatment of glaucoma, as approved by  
4 the board, prior to being issued a license to practice optometry.

5 (3) An optometrist who graduated from an accredited  
6 school of optometry after January 1, 1996, shall be deemed to  
7 have met the educational requirements for certification to use  
8 pharmaceutical agents for therapeutic purposes which includes the  
9 treatment and management of glaucoma.

10 Sec. 888. Section 71-1,135.03, Reissue Revised Statutes  
11 of Nebraska, is amended to read:

12 ~~71-1,135.03~~ (1) No course or courses in pharmacology  
13 shall be approved by the ~~department upon the recommendation of the~~  
14 ~~Board of Optometry board~~ unless taught by an institution which is  
15 accredited by a regional or professional accrediting organization  
16 which is recognized by the United States Department of Education  
17 and the transcript credit for the course or courses is certified to  
18 the board by the institution.

19 (2) No course of instruction in the treatment of glaucoma  
20 shall be approved by the ~~department upon the recommendation of the~~  
21 board unless it is taught by an institution that is recognized by  
22 the United States Department of Education or its successor and the  
23 content for the course is certified to the board by the institution  
24 as being comparable in content to a course of instruction in the  
25 treatment of glaucoma required by other professional boards for

1 licensees or registrants allowed to treat glaucoma in the scope of  
2 their professional practice.

3           Sec. 889. Section 71-1,136, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           ~~71-1,136~~ No school of optometry shall be approved by the  
6 ~~Department of Health and Human Services Regulation and Licensure~~  
7 board as an accredited school unless the school is accredited  
8 by a regional or professional accrediting organization which is  
9 recognized by the United States Department of Education.

10           Sec. 890. Section 71-1,135.06, Reissue Revised Statutes  
11 of Nebraska, is amended to read:

12           ~~71-1,135.06~~ (1) A licensed optometrist who administers or  
13 prescribes pharmaceutical agents for examination or for treatment  
14 shall provide the same standard of care to patients as that  
15 provided by a physician licensed in this state to practice  
16 medicine and surgery utilizing the same pharmaceutical agents  
17 for examination or treatment.

18           (2) A licensed optometrist who administers or prescribes  
19 pharmaceutical agents for the treatment of glaucoma shall provide  
20 the same standard of care to patients as that provided by a  
21 physician licensed in this state to practice medicine and surgery  
22 utilizing the same pharmaceutical agents for the examination and  
23 treatment of glaucoma.

24           Sec. 891. Section 71-1,135.07, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

1           ~~71-1,135.07~~ Any licensed optometrist may employ  
2 optometric assistants. Such assistants, under the supervision of  
3 a licensed optometrist, may perform such duties as are prescribed  
4 in accordance with rules and regulations adopted and promulgated  
5 by the department, with the ~~upon~~ recommendation of the ~~Board of~~  
6 ~~Optometry~~ board.

7           Sec. 892. Section 71-1,136.04, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9           ~~71-1,136.04~~ No agencies of the state or its subdivisions  
10 administering relief, public assistance, public welfare assistance,  
11 or other health service under the laws of this state, including  
12 the public schools, shall in the performance of their duties,  
13 interfere with any patient's freedom of choice in the selection of  
14 practitioners licensed to perform examinations for refractions or  
15 corrections within the field for which their respective licenses  
16 entitle them to practice.

17           Sec. 893. Section 71-1,136.05, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19           ~~71-1,136.05~~ There is hereby established the Nebraska  
20 Optometry Education Assistance Contract Program for the purpose  
21 of providing opportunities for citizens of this state desiring to  
22 pursue study in the field of optometry at accredited schools and  
23 colleges outside the state.

24           Sec. 894. Section 71-1,136.06, Reissue Revised Statutes  
25 of Nebraska, is amended to read:



1                   ~~71-1,136.06~~ The program established by section  
 2 ~~71-1,136.05~~ 893 of this act shall be administered by the Board of  
 3 Regents of the University of Nebraska. The ~~board~~ Board of Regents  
 4 shall adopt appropriate rules and regulations to carry out ~~the~~  
 5 ~~provisions of sections 71-1,136.05 to 71-1,136.08~~ sections 893 to  
 6 896 of this act and negotiate contract arrangements with accredited  
 7 schools and colleges of optometry, as provided in section ~~71-1,136,~~  
 8 889 of this act, for the admission and education of qualified  
 9 applicants who are citizens of Nebraska and who have demonstrated  
 10 their interest, aptitude, and readiness for study in the field of  
 11 optometry. The ~~board~~ Board of Regents shall require reports each  
 12 year from institutions receiving payments showing the progress and  
 13 suitability of each student being aided and containing such other  
 14 information as ~~the such board may deem~~ deems proper.

15                   Sec. 895. Section 71-1,136.07, Reissue Revised Statutes  
 16 of Nebraska, is amended to read:

17                   ~~71-1,136.07~~ The total number of students receiving annual  
 18 financial payments made under sections ~~71-1,136.05 to 71-1,136.08~~  
 19 893 to 896 of this act shall not exceed sixty students during  
 20 any school year. No more than fifteen of these students shall be  
 21 students enrolling in a college of optometry for their first year  
 22 of instruction.

23                   Sec. 896. Section 71-1,136.08, Reissue Revised Statutes  
 24 of Nebraska, is amended to read:

25                   ~~71-1,136.08~~ Financial assistance under sections

1 ~~71-1,136.05~~ ~~to~~ ~~71-1,136.08~~ 893 to 896 of this act shall be  
2 continued not to exceed four years until the enrolled student has  
3 received a degree in optometry. Contracts with schools and colleges  
4 shall set forth terms and provisions for continuation of such  
5 payments.

6 Sec. 897. Sections 897 to 993 of this act shall be known  
7 and may be cited as the Pharmacy Practice Act.

8 Sec. 898. For purposes of the Pharmacy Practice Act and  
9 elsewhere in the Uniform Credentialing Act, unless the context  
10 otherwise requires, the definitions found in sections 899 to 944 of  
11 this act apply.

12 Sec. 899. Section 71-1,147.20, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14 ~~71-1,147.20~~ Accredited hospital or clinic shall mean  
15 means a hospital or clinic accredited by the department upon  
16 ~~recommendation of~~ approved by the board.

17 Sec. 900. Section 71-1,146, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 ~~71-1,146~~ An accredited pharmacy program shall be means  
20 one approved by the board upon the recommendation of the  
21 accrediting committee of the Accreditation Council for Pharmacy  
22 Education. It shall be a pharmacy program which maintains at least  
23 a three-year course in pharmacy, consisting of not less than  
24 thirty-two weeks of instruction each school year. Such pharmacy  
25 program shall require as a condition to enrollment therein two

1 full years of college or university credit. The combined course  
2 shall consist of five years of college or university credit each  
3 year of which shall consist of not less than thirty-two weeks of  
4 instruction.

5 Sec. 901. Section 71-1,147.21, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7 ~~71-1,147.21~~ Accredited school or college of pharmacy  
8 ~~shall mean~~ means a school or college of pharmacy or a department  
9 of pharmacy of a university approved by the board pursuant to the  
10 ~~provisions of section 71-1,146.~~ 900 of this act.

11 Sec. 902. Administer means to directly apply a drug or  
12 device by injection, inhalation, ingestion, or other means to the  
13 body of a patient or research subject.

14 Sec. 903. Administration means the act of (1)  
15 administering, (2) keeping a record of such activity, and (3)  
16 observing, monitoring, reporting, and otherwise taking appropriate  
17 action regarding desired effect, side effect, interaction, and  
18 contraindication associated with administering the drug or device.

19 Sec. 904. Board means the Board of Pharmacy.

20 Sec. 905. Caregiver means any person acting as an agent  
21 on behalf of a patient or any person aiding and assisting a  
22 patient.

23 Sec. 906. Chart order means an order for a drug or device  
24 issued by a practitioner for a patient who is in the hospital  
25 where the chart is stored or for a patient receiving detoxification

1 treatment or maintenance treatment pursuant to section 28-412.

2 Chart order does not include a prescription.

3           Sec. 907. Compounding means the preparation of components  
4 into a drug product (1) as the result of a practitioner's medical  
5 order or initiative occurring in the course of practice based  
6 upon the relationship between the practitioner, patient, and  
7 pharmacist or (2) for the purpose of, or as an incident to,  
8 research, teaching, or chemical analysis and not for sale or  
9 dispensing. Compounding includes the preparation of drugs or  
10 devices in anticipation of receiving medical orders based upon  
11 routine, regularly observed prescribing patterns.

12           Sec. 908. Delegated dispensing means the practice of  
13 pharmacy by which one or more pharmacists have jointly agreed, on  
14 a voluntary basis, to work in conjunction with one or more persons  
15 pursuant to sections 968 to 985 of this act under a protocol which  
16 provides that such person may perform certain dispensing functions  
17 authorized by the pharmacist or pharmacists under certain specified  
18 conditions and limitations.

19           Sec. 909. Deliver or delivery means to actually,  
20 constructively, or attempt to transfer a drug or device from one  
21 person to another, whether or not for consideration.

22           Sec. 910. Device means an instrument, apparatus,  
23 implement, machine, contrivance, implant, in vitro reagent, or  
24 other similar or related article, including any component, part, or  
25 accessory, which is prescribed by a practitioner and dispensed by a

1 pharmacist or other person authorized by law to do so.

2           Sec. 911. Dialysis drug or device distributor means a  
3 manufacturer or wholesaler who provides dialysis drugs, solutions,  
4 supplies, or devices, to persons with chronic kidney failure for  
5 self-administration at the person's home or specified address,  
6 pursuant to a prescription.

7           Sec. 912. Dialysis drug or device distributor worker  
8 means a person working for a dialysis drug or device distributor  
9 with a delegated dispensing permit who has completed the approved  
10 training and has demonstrated proficiency to perform the task  
11 or tasks of assembling, labeling, or delivering drugs or devices  
12 pursuant to a prescription.

13           Sec. 913. (1) Dispense or dispensing means interpreting,  
14 evaluating, and implementing a medical order, including preparing  
15 and delivering a drug or device to a patient or caregiver  
16 in a suitable container appropriately labeled for subsequent  
17 administration to, or use by, a patient.

18           (2) Dispensing includes (a) dispensing incident to  
19 practice, (b) dispensing pursuant to a delegated dispensing permit,  
20 (c) dispensing pursuant to a medical order, and (d) any transfer of  
21 a prescription drug or device to a patient or caregiver other than  
22 by administering.

23           Sec. 914. Distribute means to deliver a drug or device,  
24 other than by administering or dispensing.

25           Sec. 915. Drugs, medicines, and medicinal substances

1 means (1) articles recognized in the official United States  
2 Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States,  
3 the official National Formulary, or any supplement to any of them,  
4 (2) articles intended for use in the diagnosis, cure, mitigation,  
5 treatment, or prevention of diseases in humans or animals, (3)  
6 articles, except food, intended to affect the structure or any  
7 function of the body of a human or an animal, (4) articles intended  
8 for use as a component of any articles specified in subdivision  
9 (1), (2), or (3) of this section, except any device or its  
10 components, parts, or accessories, and (5) prescription drugs or  
11 devices.

12           Sec. 916. Electronic signature has the same meaning as in  
13 section 86-621.

14           Sec. 917. Electronic transmission means transmission  
15 of information in electronic form. Electronic transmission may  
16 include computer-to-computer transmission or computer-to-facsimile  
17 transmission.

18           Sec. 918. Facility means a health care facility as  
19 defined in section 71-413.

20           Sec. 919. Facsimile means 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           Sec. 920. Section 71-1,147.19, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,147.19~~ Graduate pharmacy education or approved  
3 program ~~shall mean~~ means a period of supervised educational  
4 training by a graduate of an accredited school or college of  
5 pharmacy, which training has been approved by ~~the department upon~~  
6 ~~recommendation~~ of the board.

7 Sec. 921. Hospital has the same meaning as in section  
8 71-419.

9 Sec. 922. Labeling means the process of preparing and  
10 affixing a label to any drug container or device container,  
11 exclusive of the labeling by a manufacturer, packer, or distributor  
12 of a nonprescription drug or commercially packaged legend drug or  
13 device. Any such label shall include all information required by  
14 federal and state law or regulation.

15 Sec. 923. Medical gas distributor means a person who  
16 dispenses medical gases to a patient or ultimate user but does not  
17 include a person who manufactures medical gases or a person who  
18 distributes, transfers, delivers, dispenses, or sells medical gases  
19 to a person other than a patient or ultimate user.

20 Sec. 924. Medical order means a prescription, a  
21 chart order, or an order for pharmaceutical care issued by a  
22 practitioner.

23 Sec. 925. Nonprescription drugs means nonnarcotic  
24 medicines or drugs which may be sold without a medical order and  
25 which are prepackaged for use by the consumer and labeled in

1 accordance with the requirements of the laws and regulations of  
2 this state and the federal government.

3           Sec. 926. Patient counseling means the verbal  
4 communication by a pharmacist, pharmacist intern, or practitioner,  
5 in a manner reflecting dignity and the right of the patient to  
6 a reasonable degree of privacy, of information to the patient or  
7 caregiver in order to improve therapeutic outcomes by maximizing  
8 proper use of prescription drugs and devices and also includes the  
9 duties set out in section 965 of this act.

10           Sec. 927. (1) Pharmaceutical care means the provision of  
11 drug therapy for the purpose of achieving therapeutic outcomes that  
12 improve a patient's quality of life. Such outcomes include (a) the  
13 cure of disease, (b) the elimination or reduction of a patient's  
14 symptomatology, (c) the arrest or slowing of a disease process, or  
15 (d) the prevention of a disease or symptomatology.

16           (2) Pharmaceutical care includes the process through  
17 which the pharmacist works in concert with the patient and his  
18 or her caregiver, physician, or other professionals in designing,  
19 implementing, and monitoring a therapeutic plan that will produce  
20 specific therapeutic outcomes for the patient.

21           Sec. 928. Pharmacist means any person who is licensed by  
22 the State of Nebraska to practice pharmacy.

23           Sec. 929. Pharmacist in charge means a pharmacist who  
24 is designated on a pharmacy license or designated by a hospital  
25 as being responsible for the practice of pharmacy in the pharmacy



1 for which a pharmacy license is issued and who works within the  
2 physical confines of such pharmacy for a majority of the hours  
3 per week that the pharmacy is open for business averaged over a  
4 twelve-month period or thirty hours per week, whichever is less.

5           Sec. 930. Pharmacist intern means a person who meets the  
6 requirements of section 950 of this act.

7           Sec. 931. Pharmacy has the same meaning as in section  
8 71-425.

9           Sec. 932. Pharmacy technician means an individual at  
10 least eighteen years of age who is a high school graduate or  
11 officially recognized by the State Department of Education as  
12 possessing the equivalent degree of education, who has never  
13 been convicted of any drug-related misdemeanor or felony, and  
14 who, under the written control procedures and guidelines of an  
15 employing pharmacy, may perform those functions which do not  
16 require professional judgment and which are subject to verification  
17 to assist a pharmacist in the practice of pharmacy.

18           Sec. 933. (1) Practice of pharmacy means (a) the  
19 interpretation, evaluation, and implementation of a medical order,  
20 (b) the dispensing of drugs and devices, (c) drug product  
21 selection, (d) the administration of drugs or devices, (e) drug  
22 utilization review, (f) patient counseling, (g) the provision of  
23 pharmaceutical care, and (h) the responsibility for compounding  
24 and labeling of dispensed or repackaged drugs and devices, proper  
25 and safe storage of drugs and devices, and maintenance of proper

1 records.

2 (2) The active practice of pharmacy means the performance  
3 of the functions set out in this section by a pharmacist as his or  
4 her principal or ordinary occupation.

5 Sec. 934. Practitioner means a certified registered nurse  
6 anesthetist, a certified nurse midwife, a dentist, an optometrist,  
7 a nurse practitioner, a physician assistant, a physician, a  
8 podiatrist, or a veterinarian.

9 Sec. 935. Prescribe means to issue a medical order.

10 Sec. 936. Prescription means an order for a drug or  
11 device issued by a practitioner for a specific patient, for  
12 emergency use, or for use in immunizations. Prescription does not  
13 include a chart order.

14 Sec. 937. Prescription drug or device or legend drug or  
15 device means:

16 (1) A drug or device which is required under federal law  
17 to be labeled with one of the following statements prior to being  
18 dispensed or delivered:

19 (a) Caution: Federal law prohibits dispensing without  
20 prescription;

21 (b) Caution: Federal law restricts this drug to use by or  
22 on the order of a licensed veterinarian; or

23 (c) "Rx Only"; or

24 (2) A drug or device which is required by any applicable  
25 federal or state law to be dispensed pursuant only to a

1 prescription or chart order or which is restricted to use by  
2 practitioners only.

3           Sec. 938. Public health clinic means the department,  
4 any county, city-county, or multicounty health department, or any  
5 private not-for-profit family planning clinic licensed as a health  
6 clinic as defined in section 71-416.

7           Sec. 939. Public health clinic worker means a person in  
8 a public health clinic with a delegated dispensing permit who has  
9 completed the approved training and has demonstrated proficiency  
10 to perform the task of dispensing authorized refills of oral  
11 contraceptives pursuant to a written prescription.

12           Sec. 940. Signature means the name, word, or mark of  
13 a person written in his or her own hand with the intent to  
14 authenticate a writing or other form of communication or a digital  
15 signature which complies with section 86-611 or an electronic  
16 signature.

17           Sec. 941. Supervision means the immediate personal  
18 guidance and direction by the licensed pharmacist on duty in the  
19 facility of the performance by a pharmacy technician of authorized  
20 activities or functions subject to verification by such pharmacist,  
21 except that when a pharmacy technician performs authorized  
22 activities or functions to assist a pharmacist on duty in the  
23 facility when the prescribed drugs or devices will be administered  
24 by a licensed staff member or consultant or by a licensed physician  
25 assistant to persons who are patients or residents of a facility,

1 the activities or functions of such pharmacy technician shall only  
2 be subject to verification by a pharmacist on duty in the facility.

3           Sec. 942. Section 71-1,147.18, Reissue Revised Statutes  
4 of Nebraska, is amended to read:

5           ~~71-1,147.18~~ Temporary educational permit ~~shall mean~~ means  
6 a permit to practice pharmacy in a supervised educational program  
7 approved by the board.

8           Sec. 943. Verification means the confirmation by a  
9 supervising pharmacist of the accuracy and completeness of the  
10 acts, tasks, or functions undertaken by a pharmacy technician to  
11 assist the pharmacist in the practice of pharmacy.

12           Sec. 944. Written control procedures and guidelines means  
13 the document prepared and signed by the pharmacist in charge  
14 and approved by the board which specifies the manner in which  
15 basic levels of competency of pharmacy technicians employed by  
16 the pharmacy are determined, the manner in which supervision is  
17 provided, the manner in which the functions of pharmacy technicians  
18 are verified, the maximum ratio of pharmacy technicians to one  
19 pharmacist used in the pharmacy, and guidelines governing the use  
20 of pharmacy technicians and the functions which they may perform.

21           Sec. 945. The board shall be composed of five members,  
22 including four actively practicing pharmacists, at least one of  
23 whom practices within the confines of a hospital, and one public  
24 member who is interested in the health of the people of Nebraska.

25           Sec. 946. Section 71-1,143, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-1,143~~ As authorized by the Uniform ~~Licensing Law,~~  
3 Credentialing Act, the practice of pharmacy may be engaged in  
4 by a pharmacist, a pharmacist intern, or a practitioner with a  
5 pharmacy license. The practice of pharmacy shall not be construed  
6 to include:

7 (1) Persons who sell, offer, or expose for sale  
8 completely denatured alcohol or concentrated lye, insecticides, and  
9 fungicides in original packages;

10 (2) Practitioners, other than veterinarians, certified  
11 nurse midwives, certified registered nurse anesthetists, and nurse  
12 practitioners, who dispense drugs or devices as an incident to  
13 the practice of their profession, except that if such practitioner  
14 regularly engages in dispensing such drugs or devices to his or  
15 her patients for which such patients are charged, such practitioner  
16 shall obtain a pharmacy license;

17 (3) Persons who sell, offer, or expose for sale  
18 nonprescription drugs or proprietary medicines, the sale of which  
19 is not in itself a violation of the Nebraska Liquor Control Act;

20 (4) Medical representatives, detail persons, or persons  
21 known by some name of like import, but only to the extent of  
22 permitting the relating of pharmaceutical information to health  
23 care professionals;

24 (5) Licensed veterinarians practicing within the scope of  
25 their profession;

1           (6) Certified nurse midwives, certified registered  
2 nurse anesthetists, and nurse practitioners who dispense sample  
3 medications which are provided by the manufacturer and are  
4 dispensed at no charge to the patient;

5           (7) Hospitals engaged in the compounding and dispensing  
6 of drugs and devices pursuant to chart orders for persons  
7 registered as patients and within the confines of the hospital,  
8 except that if a hospital engages in such compounding and  
9 dispensing for persons not registered as patients and within  
10 the confines of the hospital, such hospital shall obtain a pharmacy  
11 license or delegated dispensing permit;

12           (8) Optometrists who prescribe or dispense eyeglasses or  
13 contact lenses to their own patients;

14           (9) Registered nurses employed by a hospital who  
15 administer pursuant to a chart order, or procure for such  
16 purpose, single doses of drugs or devices from original drug or  
17 device containers or properly labeled prepackaged drug or device  
18 containers to persons registered as patients and within the  
19 confines of the hospital;

20           (10) Persons employed by a facility where dispensed drugs  
21 and devices are delivered from a pharmacy for pickup by a patient  
22 or caregiver and no dispensing or storage of drugs or devices  
23 occurs; and

24           (11) Persons who sell or purchase medical products,  
25 compounds, vaccines, or serums used in the prevention or cure of

1 animal diseases and maintenance of animal health if such medical  
2 products, compounds, vaccines, or serums are not sold or purchased  
3 under a direct, specific, written medical order of a licensed  
4 veterinarian.

5 Sec. 947. Section 71-1,143.01, Revised Statutes  
6 Cumulative Supplement, 2006, is amended to read:

7 ~~71-1,143.01~~ (1) Every applicant for examination and  
8 licensure as a pharmacist shall be ~~not less than twenty-one years~~  
9 ~~of age,~~ of good moral character and temperate habits, a graduate  
10 of an accredited pharmacy program, ~~recognized by the board,~~ except  
11 that an applicant who is a graduate of a pharmacy program located  
12 outside of the United States and which is not accredited shall be  
13 deemed to have satisfied the requirement of being a graduate of an  
14 accredited pharmacy program upon providing evidence satisfactory to  
15 the department, with the recommendation of the board, of graduation  
16 from such foreign pharmacy program and upon successfully passing an  
17 equivalency examination approved by the board.

18 (2) Every applicant shall (a) file proof of sufficient  
19 internship experience in pharmacy, under the supervision of  
20 a licensed pharmacist, as may be required by the department,  
21 with the recommendation of the board, which shall comply with  
22 national requirements for internship as set forth by the National  
23 Association of Boards of Pharmacy, (b) have satisfactorily  
24 completed at least five years of college of which at least three  
25 years shall have been in an accredited pharmacy program, ~~and~~

1 (c) pass an examination ~~satisfactory to~~ approved by the board,  
2 and (d) present proof satisfactory to the department, with the  
3 recommendation of the board, that he or she (i) has passed an  
4 examination approved by the board within the last three years,  
5 (ii) has been in the active practice of the profession of pharmacy  
6 in another state, territory, or the District of Columbia for one  
7 year within the three years immediately preceding the application  
8 for licensure, (iii) has become board-certified in a specialty  
9 recognized by the Board of Pharmaceutical Specialties within the  
10 seven years immediately preceding the application for licensure,  
11 or (iv) has completed continuing competency in pharmacy that is  
12 approved by the Board of Pharmacy.

13 (3) Proof of the qualifications for licensure prescribed  
14 in this section shall be made to the satisfaction of the  
15 department, with the recommendation of the board, substantiated by  
16 proper affidavits. In all cases the actual time of attendance in an  
17 accredited pharmacy program shall be certified by the appropriate  
18 school, college, or university authority by the issuance of  
19 the degree granted to a graduate of such school, college,  
20 or university. Service and experience in pharmacy under the  
21 supervision of a licensed pharmacist, as required in this section,  
22 shall be predominantly related to the practice of pharmacy and  
23 shall include the keeping of records and the making of reports  
24 required under state and federal statutes. The Department of Health  
25 ~~and Human Services Regulation and Licensure,~~ upon department, with



1 the recommendation of the board, shall adopt and promulgate rules  
2 and regulations as may be required to establish standards for  
3 internship which shall comply with national requirements to effect  
4 reciprocity with other states which have similar requirements for  
5 licensure. ~~The required fee for pharmacy internship shall accompany~~  
6 ~~the application.~~

7           Sec. 948. Every applicant for licensure as a pharmacist  
8 shall be required to attain a grade to be determined by the board  
9 in an examination in pharmacy and a grade of seventy-five in an  
10 examination in jurisprudence of pharmacy.

11           Sec. 949. Section 71-1,143.02, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           ~~71-1,143.02~~ ~~Notwithstanding the provisions of sections~~  
14 ~~71-103 and 71-1,143.01,~~ a A temporary pharmacist license may be  
15 granted to persons meeting all of the qualifications for such a  
16 pharmacist license except the requirement that they be citizens of  
17 the United States. Such temporary license shall be issued for a  
18 period of one year from the date of issuance and may be renewed  
19 each year thereafter for four additional years, and if the person  
20 so licensed has not become a citizen of the United States within  
21 five years of the date such temporary license was issued, such  
22 license shall terminate and the person so licensed shall have no  
23 further right to practice pharmacy in this state. If a temporary  
24 pharmacist licensee becomes a citizen of the United States while  
25 a temporary pharmacist license is in force and provides evidence

1 thereof to the department, a pharmacist license may be issued in  
2 place of such temporary license and no additional fee shall be  
3 charged unless such temporary license had already expired, in which  
4 case a renewal fee shall be charged. The applicant for a temporary  
5 pharmacist license shall submit proof of his or her eligibility  
6 and intent to become a citizen of the United States. The fees to  
7 be paid and procedures for the denial, suspension, revocation, or  
8 reinstatement of such temporary license shall be the same as for a  
9 pharmacist license.

10 Sec. 950. Section 71-1,144, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 ~~71-1,144~~ (1) A pharmacist intern shall be (a) a student  
13 currently enrolled in an accredited pharmacy program, (b) a  
14 graduate of an accredited pharmacy program serving his or her  
15 internship, or (c) a graduate of a pharmacy program located  
16 outside the United States which is not accredited and who has  
17 successfully passed equivalency examinations approved by the board.  
18 Intern registration based on enrollment in or graduation from an  
19 accredited pharmacy program shall expire not later than fifteen  
20 months after the date of graduation or at the time of professional  
21 licensure, whichever comes first. Intern registration based on  
22 graduation from a pharmacy program located outside of the United  
23 States which is not accredited shall expire not later than fifteen  
24 months after the date of issuance of the registration or at the  
25 time of professional licensure, whichever comes first.

1           (2) A pharmacist intern may compound and dispense drugs  
2 or devices and fill prescriptions only in the presence of and under  
3 the immediate personal supervision of a licensed pharmacist. Such  
4 licensed pharmacist shall either be (a) the person to whom the  
5 pharmacy license is issued or a person in the actual employ of  
6 the pharmacy licensee or (b) the delegating pharmacist designated  
7 in a delegated dispensing agreement by a hospital with a delegated  
8 dispensing permit.

9           Sec. 951. Section 71-1,147.22, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11           ~~71-1,147.22~~ The department, ~~upon~~ with the recommendation  
12 of the board, shall have authority to issue temporary educational  
13 permits to qualified applicants in accordance with the ~~provisions~~  
14 ~~of sections 71-1,147.17 to 71-1,147.32.~~ Pharmacy Practice Act.

15           Sec. 952. Section 71-1,147.23, Reissue Revised Statutes  
16 of Nebraska, is amended to read:

17           ~~71-1,147.23~~ The holder of a temporary educational permit  
18 shall be entitled to practice pharmacy while serving in a  
19 supervised educational program or in an approved graduate pharmacy  
20 education program conducted by an accredited hospital or clinic  
21 in the State of Nebraska or by an accredited school or college  
22 of pharmacy in the State of Nebraska. The holder of a temporary  
23 educational permit shall not be qualified to engage in the practice  
24 of pharmacy outside of the assigned training program or outside the  
25 confines of the accredited hospital or clinic or the accredited

1 school or college.

2           Sec. 953. Section 71-1,147.24, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           ~~71-1,147.24~~ Before any temporary educational permit  
5 is issued pursuant to ~~sections 71-1,147.17 to 71-1,147.32,~~ the  
6 Pharmacy Practice Act, the department, ~~upon~~ with the recommendation  
7 of the board, shall determine that the applicant for such permit ~~is~~  
8 ~~of good moral character and that such applicant has otherwise~~ has  
9 met all of the requirements of ~~sections 71-1,147.17 to 71-1,147.32~~  
10 the act relating to issuing any such permit.

11           Sec. 954. Section 71-1,147.25, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           ~~71-1,147.25~~ Except as otherwise provided by law, the  
14 holder of any temporary educational permit shall be subject to all  
15 of the rules and regulations prescribed for pharmacists regularly  
16 licensed in the State of Nebraska and such other rules and  
17 regulations as may be adopted by the department, ~~upon~~ with the  
18 recommendation of the board, with respect to such permits in order  
19 to carry out the purposes of ~~sections 71-1,147.17 to 71-1,147.32.~~  
20 the Pharmacy Practice Act.

21           Sec. 955. Section 71-1,147.26, Reissue Revised Statutes  
22 of Nebraska, is amended to read:

23           ~~71-1,147.26~~ The duration of any temporary educational  
24 permit issued pursuant to ~~sections 71-1,147.17 to 71-1,147.32~~ the  
25 Pharmacy Practice Act shall be determined by the ~~Department of~~

1 ~~Health and Human Services Regulation and Licensure department~~ but  
2 in no case shall it be in excess of one year. The permit may be  
3 renewed from time to time at the discretion of the ~~Department of~~  
4 ~~Health and Human Services Regulation and Licensure department~~ but  
5 in no case shall it be renewed for more than five one-year periods.

6 Sec. 956. Section 71-1,147.27, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8 ~~71-1,147.27~~ The department, with the recommendation of  
9 the board, may issue to all qualified graduates of accredited  
10 colleges of pharmacy, who are eligible for the examination  
11 provided for in section ~~71-1,143.01,~~ 947 of this act, and who  
12 make application for such examination, a temporary educational  
13 permit, ~~without charge.~~ Such permit shall be issued only for  
14 the duration of the time between the date of the examination and  
15 the date of licensure granted as a result of such examination.  
16 ~~Any person issued a temporary educational permit, without charge,~~  
17 ~~shall meet all requirements provided for in sections 71-1,147.17~~  
18 ~~to 71-1,147.32, except payment of the required fee, and such~~  
19 ~~exemption is only for the period of time between examination date~~  
20 ~~and licensing date and for only those individuals who take the~~  
21 ~~examination as provided in section 71-1,143.01.~~

22 Sec. 957. Section 71-1,147.28, Reissue Revised Statutes  
23 of Nebraska, is amended to read:

24 ~~71-1,147.28~~ Before granting any temporary educational  
25 permit, the ~~Department of Health and Human Services Regulation~~

1 ~~and Licensure~~ department shall ascertain by evidence satisfactory  
2 to the department, with the recommendation of the board, that an  
3 accredited hospital or clinic or an accredited school or college  
4 of pharmacy in the State of Nebraska has requested the issuance  
5 of a temporary educational permit for an applicant to serve as a  
6 graduate student in its approved program for the period involved.  
7 Any application for the issuance of such permit shall be signed  
8 by the applicant requesting that such permit be issued to him or  
9 her and shall designate the specified approved graduate pharmacy  
10 educational program with respect to which such permit shall apply.

11           Sec. 958. Section 71-1,147.29, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           ~~71-1,147.29~~ The recommendation of the board to the  
14 department for the issuance of any temporary educational permits  
15 shall be made at regular meetings of the board, but the chairperson  
16 or one other member of the board, as specifically selected by the  
17 members of the board, and its executive secretary, jointly shall  
18 have the power to recommend to the department the issuance of such  
19 permits between the meetings of the board. ~~which permits shall~~  
20 ~~be subject to approval or disapproval at the next meeting of the~~  
21 ~~board.~~

22           Sec. 959. Section 71-1,147.30, Reissue Revised Statutes  
23 of Nebraska, is amended to read:

24           ~~71-1,147.30~~ The recipient of a temporary educational  
25 permit shall pay the required fee.

1           Sec. 960. Section 71-1,147.31, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           ~~71-1,147.31~~ Any temporary educational permit granted  
4 under the authority of ~~sections 71-1,147.17 to 71-1,147.32~~ the  
5 Pharmacy Practice Act may be suspended, limited, or revoked by  
6 the department, ~~upon~~ with the recommendation of the board, at any  
7 time upon a finding that the reasons for issuing such permit no  
8 longer exist or that the person to whom such permit has been  
9 issued is no longer qualified to hold such permit or for any reason  
10 for which a pharmacist license could be suspended, limited, or  
11 revoked. A hearing on the suspension, limitation, or revocation of  
12 the temporary educational permit by the department shall be held  
13 in the same manner as for the denial of a pharmacist license. The  
14 final order of the ~~Director of Regulation and Licensure~~ director  
15 may be appealed, and the appeal shall be in accordance with the  
16 Administrative Procedure Act.

17           Sec. 961. Section 71-1,147.32, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19           ~~71-1,147.32~~ The holder of a temporary educational permit  
20 shall not be entitled to a pharmacist license in the State  
21 of Nebraska unless and until such individual meets all of the  
22 requirements of law for issuing such pharmacist license.

23           Sec. 962. Section 71-1,143.03, Reissue Revised Statutes  
24 of Nebraska, is amended to read:

25           ~~71-1,143.03~~ Unless specifically limited by the board or

1 the department, a pharmacist may (1) engage in the practice of  
2 pharmacy, (2) use the abbreviation R.P. or the title licensed  
3 pharmacist, (3) enter into delegated dispensing agreements, and  
4 (4) possess, without dispensing, prescription drugs and devices,  
5 including controlled substances, for purposes of administration.

6 Sec. 963. Section 71-1,147, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 ~~71-1,147~~ (1) Except as provided for pharmacy technicians  
9 in section ~~71-1,147.33~~ 986 of this act and for individuals  
10 authorized to dispense under a delegated dispensing permit, no  
11 person other than a licensed pharmacist, a pharmacist intern, or a  
12 practitioner with a pharmacy license shall provide pharmaceutical  
13 care, compound and dispense drugs or devices, or dispense pursuant  
14 to a medical order. Notwithstanding any other provision of law  
15 to the contrary, a pharmacist or pharmacist intern may dispense  
16 drugs or devices pursuant to a medical order of a practitioner  
17 authorized to prescribe in another state if such practitioner could  
18 be authorized to prescribe such drugs or devices in this state.

19 (2) Except as provided for pharmacy technicians in  
20 section ~~71-1,147.33~~ 986 of this act and for individuals authorized  
21 to dispense under a delegated dispensing permit, it shall be  
22 unlawful for any person to permit or direct a person who is not  
23 a pharmacist intern, a licensed pharmacist, or a practitioner with  
24 a pharmacy license to provide pharmaceutical care, compound and  
25 dispense drugs or devices, or dispense pursuant to a medical order.



1           (3) It shall be unlawful for any person to coerce  
2 or attempt to coerce a pharmacist to enter into a delegated  
3 dispensing agreement or to supervise any pharmacy technician  
4 for any purpose or in any manner contrary to the professional  
5 judgment of the pharmacist. Violation of this subsection by a  
6 health care professional regulated pursuant to the ~~provisions of~~  
7 ~~Chapter 71~~ Uniform Credentialing Act shall be considered an act  
8 of unprofessional conduct. A violation of this subsection by a  
9 facility shall be prima facie evidence in an action against the  
10 license of the facility pursuant to the Health Care Facility  
11 Licensure Act. Any pharmacist subjected to coercion or attempted  
12 coercion pursuant to this subsection has a cause of action against  
13 the person and may recover his or her damages and reasonable  
14 attorney's fees.

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

17           Sec. 964. Section 71-1,147.36, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19           ~~71-1,147.36~~ (1) Information with regard to a patient  
20 maintained by a pharmacist pursuant to ~~sections 71-1,142 to~~  
21 ~~71-1,151~~ the Pharmacy Practice Act shall be privileged and  
22 confidential and may be released only to (a) the patient or  
23 the caregiver of the patient or others authorized by the patient  
24 or his or her legal representative, (b) a physician treating  
25 the patient, (c) other physicians or pharmacists when, in the

1 professional judgment of the pharmacist, such release is necessary  
2 to protect the patient's health or well-being, or (d) other  
3 persons or governmental agencies authorized by law to receive such  
4 information.

5 (2) Nothing in this section shall prohibit the release  
6 of confidential information to researchers conducting biomedical,  
7 pharmaco-epidemiologic, or pharmaco-economic research pursuant to  
8 health research approved by an institutional review board which is  
9 established in accordance with 21 C.F.R. parts 50 and 56 or 45  
10 C.F.R. part 46, as such parts existed on ~~May 1, 2001~~, April 1,  
11 2006.

12 Sec. 965. Section 71-1,147.35, Revised Statutes  
13 Cumulative Supplement, 2006, is amended to read:

14 ~~71-1,147.35~~ (1)(a) Prior to the dispensing or the  
15 delivery of a drug or device pursuant to a medical order  
16 to a patient or caregiver, a pharmacist shall in all care  
17 settings conduct a prospective drug utilization review. Such  
18 prospective drug utilization review shall involve monitoring the  
19 patient-specific medical history described in subdivision (b) of  
20 this subsection and available to the pharmacist at the practice  
21 site for:

- 22 (i) Therapeutic duplication;  
23 (ii) Drug-disease contraindications;  
24 (iii) Drug-drug interactions;  
25 (iv) Incorrect drug dosage or duration of drug treatment;

1 (v) Drug-allergy interactions; and

2 (vi) Clinical abuse or misuse.

3 (b) A pharmacist conducting a prospective drug  
4 utilization review shall ensure that a reasonable effort is made  
5 to obtain from the patient, his or her caregiver, or his or her  
6 practitioner and to record and maintain records of the following  
7 information to facilitate such review:

8 (i) The name, address, telephone number, date of birth,  
9 and gender of the patient;

10 (ii) The patient's history of significant disease, known  
11 allergies, and drug reactions and a comprehensive list of relevant  
12 drugs and devices used by the patient; and

13 (iii) Any comments of the pharmacist relevant to the  
14 patient's drug therapy.

15 (c) The assessment of data on drug use in any prospective  
16 drug utilization review shall be based on predetermined standards,  
17 approved by ~~the department upon the recommendation of~~ the board.

18 (2)(a) Prior to the dispensing or delivery of a drug or  
19 device pursuant to a prescription, the pharmacist shall ensure that  
20 a verbal offer to counsel the patient or caregiver is made. The  
21 counseling of the patient or caregiver by the pharmacist shall be  
22 on elements which, in the exercise of the pharmacist's professional  
23 judgment, the pharmacist deems significant for the patient. Such  
24 elements may include, but need not be limited to, the following:

25 (i) The name and description of the prescribed drug or

1 device;

2 (ii) The route of administration, dosage form, dose, and  
3 duration of therapy;

4 (iii) Special directions and precautions for preparation,  
5 administration, and use by the patient or caregiver;

6 (iv) Common side effects, adverse effects or  
7 interactions, and therapeutic contraindications that may be  
8 encountered, including avoidance, and the action required if such  
9 effects, interactions, or contraindications occur;

10 (v) Techniques for self-monitoring drug therapy;

11 (vi) Proper storage;

12 (vii) Prescription refill information; and

13 (viii) Action to be taken in the event of a missed dose.

14 (b) The patient counseling provided for in this  
15 subsection shall be provided in person whenever practical or by the  
16 utilization of telephone service which is available at no cost to  
17 the patient or caregiver.

18 (c) Patient counseling shall be appropriate to the  
19 individual patient and shall be provided to the patient or  
20 caregiver.

21 (d) Written information may be provided to the patient  
22 or caregiver to supplement the patient counseling provided for in  
23 this subsection but shall not be used as a substitute for such  
24 patient counseling. If written information is provided, it shall  
25 also include all information found on the prescription label.

1           (e) This subsection shall not be construed to require a  
2 pharmacist to provide patient counseling when:

3           (i) The patient or caregiver refuses patient counseling;

4           (ii) The pharmacist, in his or her professional judgment,  
5 determines that patient counseling may be detrimental to the  
6 patient's care or to the relationship between the patient and his  
7 or her practitioner;

8           (iii) The patient is a patient or resident of a health  
9 care facility or health care service licensed under the Health Care  
10 Facility Licensure Act to whom prescription drugs or devices are  
11 administered by a licensed or certified staff member or consultant  
12 or a certified physician's assistant; or

13           (iv) The practitioner authorized to prescribe drugs or  
14 devices specifies that there shall be no patient counseling unless  
15 he or she is contacted prior to such patient counseling. The  
16 prescribing practitioner shall specify such prohibition in an oral  
17 prescription or in writing on the face of a written prescription,  
18 including any prescription which is received by facsimile or  
19 electronic transmission. The pharmacist shall note "Contact Before  
20 Counseling" on the face of the prescription if such is communicated  
21 orally by the prescribing practitioner.

22           Sec. 966. Section 71-1,146.01, Revised Statutes  
23 Cumulative Supplement, 2006, is amended to read:

24           ~~71-1,146.01~~ (1) All medical orders shall be valid for the  
25 period stated in the medical order, except that (a) if the medical

1 order is for a controlled substance listed in section 28-405, such  
2 period shall not exceed six months from the date of issuance at  
3 which time the medical order shall expire and (b) if the medical  
4 order is for a drug or device which is not a controlled substance  
5 listed in section 28-405 or is an order issued by a practitioner  
6 for pharmaceutical care, such period shall not exceed twelve months  
7 from the date of issuance at which time the medical order shall  
8 expire.

9 (2) Prescription drugs or devices may only be dispensed  
10 by a pharmacist or pharmacist intern pursuant to a medical order,  
11 by an individual dispensing pursuant to a delegated dispensing  
12 permit, or as otherwise provided in section ~~71-1,143~~ 946 of this  
13 act. Notwithstanding any other provision of law to the contrary,  
14 a pharmacist or a pharmacist intern may dispense drugs or devices  
15 pursuant to a medical order or an individual dispensing pursuant  
16 to a delegated dispensing permit may dispense drugs or devices  
17 pursuant to a medical order. ~~Sections 71-1,142 to 71-1,151~~ The  
18 Pharmacy Practice Act shall not be construed to require any  
19 pharmacist or pharmacist intern to dispense any drug or device  
20 pursuant to any medical order. A pharmacist or pharmacist intern  
21 shall retain the professional right to refuse to dispense.

22 (3) Except as otherwise provided in section 28-414, a  
23 practitioner or the practitioner's agent may transmit a medical  
24 order to a pharmacist or pharmacist intern by the following  
25 means: (a) In writing, (b) orally, (c) by facsimile or electronic

1 transmission of a medical order signed by the practitioner, or (d)  
2 by facsimile or electronic transmission of a medical order which  
3 is not signed by the practitioner. Such order shall be treated the  
4 same as an oral medical order.

5 (4) Except as otherwise provided in section 28-414, any  
6 medical order transmitted by facsimile or electronic transmission  
7 shall (a) be transmitted by the practitioner or the practitioner's  
8 agent directly to a pharmacist or pharmacist intern in a licensed  
9 pharmacy of the patient's choice. No intervening person shall  
10 be permitted access to the medical order to alter such order  
11 or the licensed pharmacy chosen by the patient. Such medical  
12 order may be transmitted through a third-party intermediary  
13 who shall facilitate the transmission of the order from the  
14 practitioner or practitioner's agent to the pharmacy, (b) identify  
15 the transmitter's telephone number or other suitable information  
16 necessary to contact the transmitter for written or oral  
17 confirmation, the time and date of the transmission, the identity  
18 of the pharmacy intended to receive the transmission, and other  
19 information as required by law, and (c) serve as the original  
20 medical order if all other requirements of this subsection are  
21 satisfied. Medical orders transmitted by electronic transmission  
22 shall be signed by the practitioner either with an electronic  
23 signature or a digital signature.

24 (5) The pharmacist shall exercise professional judgment  
25 regarding the accuracy, validity, and authenticity of any medical

1 order transmitted by facsimile or electronic transmission.

2 Sec. 967. Section 71-1,146.02, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4 ~~71-1,146.02~~ Original prescription information for any  
5 controlled substances listed in Schedule III, IV, or V of section  
6 28-405 and other prescription drugs or devices not listed in  
7 section 28-405 may be transferred between pharmacies for the  
8 purpose of refill dispensing on a one-time basis, except that  
9 pharmacies electronically accessing a real-time, on-line data base  
10 may transfer up to the maximum refills permitted by law and as  
11 authorized by the prescribing practitioner on the face of the  
12 prescription. Transfers are subject to the following:

13 (1) The transfer is communicated directly between two  
14 pharmacists or pharmacist interns except when the pharmacies can  
15 use a real-time, on-line data base;

16 (2) The transferring pharmacist or pharmacist intern  
17 indicates void on the record of the prescription except when a  
18 single refill is transferred for emergency or traveling purposes;

19 (3) The transferring pharmacist or pharmacist intern  
20 indicates on the record of the prescription the name, the address,  
21 and, if a controlled substance, the Drug Enforcement Administration  
22 number of the pharmacy to which the information was transferred,  
23 the name of the pharmacist or pharmacist intern receiving the  
24 information, the date of transfer, and the name of the transferring  
25 pharmacist or pharmacist intern;



1           (4) The receiving pharmacist or pharmacist intern  
2 indicates on the record of the transferred prescription that the  
3 prescription is transferred;

4           (5) The transferred prescription includes the following  
5 information:

6           (a) The date of issuance of the original prescription;

7           (b) The original number of refills authorized;

8           (c) The date of original dispensing;

9           (d) The number of valid refills remaining;

10          (e) The date and location of last refill; and

11          (f) The name, the address, and, if a controlled  
12 substance, the Drug Enforcement Administration number of the  
13 pharmacy from which the transfer was made, the name of the  
14 pharmacist or pharmacist intern transferring the information, the  
15 original prescription number, and the date of transfer; and

16          (6) Both the original and transferred prescriptions must  
17 be maintained by the transferring and receiving pharmacy for a  
18 period of five years from the date of transfer.

19          Sec. 968. Section 71-1,147.62, Reissue Revised Statutes  
20 of Nebraska, is amended to read:

21          ~~71-1,147.62~~ A pharmacist may delegate certain specified  
22 dispensing tasks and functions under specified conditions and  
23 limitations to another person by entering into a delegated  
24 dispensing agreement which serves as the basis for a delegated  
25 dispensing permit. A delegated dispensing agreement shall include

1 the address of the site where the dispensing will occur, the  
2 name and license number of each pharmacist who will assume  
3 the responsibilities of the delegating pharmacist, the name and  
4 signature of any individual who will be dispensing pursuant to such  
5 agreement, the manner in which inspections must be conducted and  
6 documented by the delegating pharmacist, and any other information  
7 required by the board. A delegated dispensing agreement shall not  
8 become effective until a delegated dispensing permit based upon  
9 such agreement is issued by the department, with the recommendation  
10 of the board, pursuant to section ~~71-1,147.63.~~ 969 of this act.

11           Sec. 969. Section 71-1,147.63, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           ~~71-1,147.63~~ (1) Any person who has entered into a  
14 delegated dispensing agreement pursuant to section ~~71-1,147.62~~ 968  
15 of this act may apply to the department for a delegated dispensing  
16 permit. An applicant shall apply at least thirty days prior to the  
17 anticipated date for commencing delegated dispensing activities.  
18 Each applicant shall (a) file an application as prescribed by the  
19 department and a copy of the delegated dispensing agreement and  
20 (b) pay any fees required by the department. A hospital applying  
21 for a delegated dispensing permit shall not be required to pay an  
22 application fee if it has a pharmacy license under the Health Care  
23 Facility Licensure Act.

24           (2) The department shall issue or renew a delegated  
25 dispensing permit to an applicant if the department, with the

1 recommendation of the board, determines that:

2 (a) The application and delegated dispensing agreement  
3 comply with ~~sections 71-1,147.42 to 71-1,147.64,~~ the Pharmacy  
4 Practice Act;

5 (b) The public health and welfare is protected and public  
6 convenience and necessity is promoted by the issuance of such  
7 permit. If the applicant is a hospital, public health clinic,  
8 dialysis drug or device distributor, or medical gas distributor,  
9 the department shall find that the public health and welfare is  
10 protected and public convenience and necessity is promoted. For any  
11 other applicant, the department may, in its discretion, require the  
12 submission of documentation to demonstrate that the public health  
13 and welfare is protected and public convenience and necessity is  
14 promoted by the issuance of the delegated dispensing permit; and

15 (c) The applicant has complied with any inspection  
16 requirements pursuant to ~~section 71-1,147.64.~~ 970 of this act.

17 (3) In addition to the requirements of subsection (2)  
18 of this section, a public health clinic (a) shall apply for a  
19 separate delegated dispensing permit for each clinic maintained on  
20 separate premises even though such clinic is operated under the  
21 same management as another clinic and (b) shall not apply for  
22 a separate delegated dispensing permit to operate an ancillary  
23 facility. For purposes of this subsection, ancillary facility means  
24 a delegated dispensing site which offers intermittent services,  
25 which is staffed by personnel from a public health clinic for which

1 a delegated dispensing permit has been issued, and at which no  
2 legend drugs or devices are stored.

3 (4) A delegated dispensing permit shall not be  
4 transferable. Such permit shall expire annually on July 1 unless  
5 renewed by the department. The department, with the recommendation  
6 of the board, may adopt and promulgate rules and regulations to  
7 reinstate expired permits upon payment of a late fee.

8 Sec. 970. Section 71-1,147.64, Reissue Revised Statutes  
9 of Nebraska, is amended to read:

10 ~~71-1,147.64~~ (1) Before a delegated dispensing permit  
11 may be issued by the department, with the recommendation of the  
12 board, a pharmacy inspector of the board shall conduct an onsite  
13 inspection of the delegated dispensing site. A hospital applying  
14 for a delegated dispensing permit shall not be subject to an  
15 initial inspection or inspection fees pursuant to this subsection  
16 if the delegated dispensing site was inspected by the department  
17 pursuant to licensure under the Health Care Facility Licensure Act.

18 (2) Each permittee shall have the delegated dispensing  
19 site inspected at least once on an annual basis. Such inspection  
20 may be conducted by self-inspection or other compliance assurance  
21 modalities, when approved by the board, as authorized in the rules  
22 and regulations of the department. A hospital with a delegated  
23 dispensing permit shall not be subject to annual inspections or  
24 inspection fees pursuant to this subsection if the delegated  
25 dispensing site was inspected by the department pursuant to

1 licensure under the Health Care Facility Licensure Act.

2 (3) Any applicant or permittee who fails to meet the  
3 requirements of the board or department to dispense drugs or  
4 devices pursuant to a delegated dispensing permit shall, prior to  
5 dispensing (a) have the delegated dispensing site reinspected by a  
6 pharmacy inspector of the board and (b) pay any reinspection fees.

7 (4) The department, with the recommendation of the board,  
8 shall set inspection fees by rule and regulation not to exceed  
9 the fees established for pharmacy inspections required to obtain  
10 a pharmacy license under the Health Care Facility Licensure Act.  
11 The department shall remit inspection fees to the State Treasurer  
12 for credit to the Professional and Occupational Credentialing Cash  
13 Fund.

14 Sec. 971. Section 71-1,147.42, Reissue Revised Statutes  
15 of Nebraska, is amended to read:

16 ~~71-1,147.42~~ If a complaint is filed against a delegated  
17 dispensing permittee or any staff member, volunteer, or consultant  
18 in association with work performed under a delegated dispensing  
19 permit and if the complaint is found to be valid, the cost of  
20 investigating the complaint and any followup inspections shall  
21 be calculated by the board based upon the actual costs incurred  
22 and the cost shall be borne by the permittee being investigated.  
23 All costs collected by the department shall be remitted to the  
24 State Treasurer for credit to the Professional and Occupational  
25 Credentialing Cash Fund. If the complaint is not found to be valid,

1 the cost of the investigation shall be paid from the fund.

2 Sec. 972. Section 71-1,147.43, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4 ~~71-1,147.43~~ The department, with the recommendation of  
5 the board, may deny an application for a delegated dispensing  
6 permit, revoke, limit, or suspend a delegated dispensing permit, or  
7 refuse renewal of a delegated dispensing permit for a violation of  
8 section ~~71-147~~ ~~or 71-148~~ 78 or 79 of this act or for any violation  
9 of ~~sections 71-1,142 to 71-1,151~~ the Pharmacy Practice Act and any  
10 rules and regulations adopted and promulgated by the department,  
11 with the recommendation of the board, pursuant to ~~such sections.~~  
12 the act.

13 Sec. 973. Section 71-1,147.44, Reissue Revised Statutes  
14 of Nebraska, is amended to read:

15 ~~71-1,147.44~~ (1) If the department, with the  
16 recommendation of the board, determines to deny an application for  
17 a delegated dispensing permit or to revoke, limit, suspend, or  
18 refuse renewal of a delegated dispensing permit, the department  
19 shall send to the applicant or permittee, by certified mail, a  
20 notice setting forth the particular reasons for the determination.  
21 The denial, limitation, suspension, revocation, or refusal of  
22 renewal shall become final thirty days after the mailing of the  
23 notice unless the applicant or permittee, within such thirty-day  
24 period, requests a hearing in writing. The applicant or permittee  
25 shall be given a fair hearing before the department and may present

1 such evidence as may be proper. On the basis of such evidence,  
2 the determination involved shall be affirmed or set aside, and  
3 a copy of such decision setting forth the finding of facts and  
4 the particular reasons upon which it is based shall be sent by  
5 certified mail to the applicant or permittee. The decision shall  
6 become final thirty days after a copy of such decision is mailed  
7 unless the applicant or permittee within such thirty-day period  
8 appeals the decision pursuant to section ~~71-1,147.46.~~ 975 of this  
9 act.

10 (2) The procedure governing hearings authorized by this  
11 section shall be in accordance with rules and regulations adopted  
12 and promulgated by the department. A full and complete record shall  
13 be kept of all proceedings. Witnesses may be subpoenaed by either  
14 party and shall be allowed a fee at a rate prescribed by the  
15 rules and regulations adopted and promulgated by the department.  
16 The proceedings shall be summary in nature and triable as equity  
17 actions. Affidavits may be received in evidence in the discretion  
18 of the ~~Director of Regulation and Licensure.~~ director. The  
19 department shall have the power to administer oaths, to subpoena  
20 witnesses and compel their attendance, and to issue subpoenas duces  
21 tecum and require the production of books, accounts, and documents  
22 in the same manner and to the same extent as the district courts of  
23 the state. Depositions may be used by either party.

24 Sec. 974. Section 71-1,147.45, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

1                   ~~71-1,147.45~~ (1) Upon the completion of any hearing  
2 pursuant to section ~~71-1,147.44~~, 973 of this act, ~~the Director~~  
3 ~~of Regulation and Licensure~~ director shall have the authority  
4 through entry of an order to exercise in his or her discretion any  
5 or all of the following powers:

6                   (a) Issue a censure against the permittee;  
7                   (b) Place the permittee on probation;  
8                   (c) Place a limitation or limitations on the permit and  
9 upon the right of the permittee to dispense drugs or devices to the  
10 extent, scope, or type of operation, for such time, and under such  
11 conditions as the director finds necessary and proper. The director  
12 shall consult with the board in all instances prior to issuing an  
13 order of limitation;

14                   (d) Impose a civil penalty not to exceed twenty thousand  
15 dollars. The amount of the civil penalty, if any, shall be based  
16 on the severity of the violation. If any violation is a repeated  
17 or continuing violation, each violation or each day a violation  
18 continues shall constitute a separate violation for the purpose of  
19 computing the applicable civil penalty, if any;

20                   (e) Enter an order of suspension of the permit;

21                   (f) Enter an order of revocation of the permit; and

22                   (g) Dismiss the action.

23                   (2) The permittee shall not dispense drugs or devices  
24 after a permit is revoked or during the time for which the permit  
25 is suspended. If a permit is suspended, the suspension shall be for



1 a definite period of time to be fixed by the director. The permit  
2 shall be automatically reinstated upon the expiration of such  
3 period if the current renewal fees have been paid. If the permit  
4 is revoked, the revocation shall be permanent. ~~7 except that at any~~  
5 ~~time after the expiration of two years, application may be made~~  
6 ~~for reinstatement by any permittee whose permit has been revoked.~~  
7 ~~The application shall be addressed to the director but may not be~~  
8 ~~received or filed by him or her unless accompanied by a written~~  
9 ~~recommendation of reinstatement by the board. The department may~~  
10 ~~adopt and promulgate the necessary rules and regulations concerning~~  
11 ~~notice and hearing of such application.~~

12 (3) Any civil penalty assessed and unpaid under this  
13 section shall constitute a debt to the State of Nebraska which  
14 may be collected in the manner of a lien foreclosure or sued for  
15 and recovered in a proper form of action in the name of the state  
16 in the district court of the county in which the violator resides  
17 or owns property. The department shall within thirty days after  
18 receipt remit any collected civil penalty to the State Treasurer  
19 ~~for credit to the permanent school fund.~~ distribution in accordance  
20 with Article VII, section 5, of the Constitution of Nebraska.

21 Sec. 975. Section 71-1,147.46, Reissue Revised Statutes  
22 of Nebraska, is amended to read:

23 ~~71-1,147.46~~ (1) A petition for the revocation or  
24 suspension of a delegated dispensing permit may be filed by the  
25 Attorney General or by the county attorney in the county in which

1 the permittee resides or is dispensing pursuant to a delegated  
2 dispensing permit. The petition shall be filed with the board and  
3 shall be entitled In the Matter of the Revocation (or suspension)  
4 of the Permit of (name of permittee) to dispense drugs and devices.  
5 It shall state the charges against the permittee with reasonable  
6 definiteness. Upon approval of such petition by the board, it shall  
7 be forwarded to the department which shall make an order fixing a  
8 time and place for hearing thereon, which shall not be less than  
9 ten days nor more than thirty days thereafter. Notice of the filing  
10 of such petition and of the time and place of hearing shall be  
11 served upon the permittee at least ten days before such hearing.

12 (2) The notice of charges may be served by any sheriff or  
13 constable or by any person especially appointed by the department.  
14 The order of revocation or suspension of a permit shall be entered  
15 on record and the name of such permittee stricken from the roster  
16 of permittees, and the permittee shall not engage in the dispensing  
17 of drugs and devices after revocation of the permit or during the  
18 time for which it is suspended.

19 (3) Any permittee shall have the right of appeal from an  
20 order of the department denying, revoking, suspending, or refusing  
21 renewal of a delegated dispensing permit. The appeal shall be in  
22 accordance with the Administrative Procedure Act.

23 Sec. 976. Section 71-1,147.47, Reissue Revised Statutes  
24 of Nebraska, is amended to read:

25 ~~71-1,147.47~~ When appropriate, the Attorney General, ~~upon~~

1 with the recommendation of the board, shall initiate criminal  
2 charges against pharmacists or other persons who knowingly permit  
3 individuals dispensing pursuant to a delegated dispensing permit  
4 to perform professional duties which require the expertise or  
5 professional judgment of a pharmacist.

6           Sec. 977. Section 71-1,147.48, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8           ~~71-1,147.48~~ (1) ~~Upon~~ With the recommendation of the  
9 board, the ~~Director of Regulation and Licensure~~ director shall  
10 approve a formulary to be used by individuals dispensing pursuant  
11 to a delegated dispensing permit. A formulary shall consist of  
12 a list of drugs or devices appropriate to delegated dispensing  
13 activities authorized by the delegated dispensing permit. Except  
14 as otherwise provided in this section, if the board finds that a  
15 formulary would be unnecessary to protect the public health and  
16 welfare and promote public convenience and necessity, the board  
17 shall recommend that no formulary be approved.

18           (2) (a) ~~Upon~~ With the recommendation of the board, which  
19 shall be based on the recommendations of the Public Health  
20 Clinic Formulary Advisory Committee, the director shall approve  
21 the formulary to be used by public health clinics dispensing  
22 pursuant to a delegated dispensing permit.

23           (b) The formulary for a public health clinic shall  
24 consist of a list of drugs and devices for contraception,  
25 sexually transmitted diseases, and vaginal infections which may

1 be dispensed and stored, patient instruction requirements which  
2 shall include directions on the use of drugs and devices, potential  
3 side effects and drug interactions, criteria for contacting the  
4 on-call pharmacist, and accompanying written patient information.

5 (c) In no event shall the director approve for inclusion  
6 in the formulary any drug or device not approved by the committee  
7 or exclude any of the provisions for patient instruction approved  
8 by the board.

9 (d) Drugs and devices with the following characteristics  
10 shall not be eligible to be included in the formulary:

11 (i) Controlled substances;

12 (ii) Drugs with significant dietary interactions;

13 (iii) Drugs with significant drug-drug interactions; and

14 (iv) Drugs or devices with complex counseling profiles.

15 (3) (a) ~~Upon~~ With the recommendation of the board, the  
16 director shall approve a formulary to be used by dialysis drug or  
17 device distributors.

18 (b) The formulary for a dialysis drug or device  
19 distributor shall consist of a list of drugs, solutions, supplies,  
20 and devices for the treatment of chronic kidney failure which may  
21 be dispensed and stored.

22 (c) In no event shall the director approve for inclusion  
23 in the formulary any drug or device not approved by the board.

24 (d) Controlled substances shall not be eligible to be  
25 included in the formulary.

1           Sec. 978. Section 71-1,147.50, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           ~~71-1,147.50~~ (1) Each delegated dispensing permittee shall  
4 have an actively practicing Nebraska-licensed pharmacist listed as  
5 the delegating pharmacist in the delegated dispensing agreement.  
6 The delegating pharmacist shall be responsible for all activities  
7 set forth in his or her delegated dispensing agreement. The  
8 delegating pharmacist shall approve and maintain a policy and  
9 procedure manual governing those aspects of the practice of  
10 pharmacy covered by the delegated dispensing agreement.

11           (2) The delegating pharmacist for a public health clinic  
12 or a dialysis drug or device distributor shall be physically  
13 in the clinic or distributor's facility at least once every  
14 thirty days. The delegating pharmacist shall conduct and document  
15 monthly inspections of all activities and responsibilities listed  
16 in subsection (3) of this section and under his or her delegated  
17 dispensing agreement.

18           (3) The delegating pharmacist for a public health clinic  
19 shall be responsible for the security, environment, inventory,  
20 and record keeping of all drugs and devices received, stored, or  
21 dispensed by the public health clinic. The delegating pharmacist  
22 for a dialysis drug or device distributor shall be responsible  
23 for the distribution, record keeping, labeling, and delivery of  
24 all drugs and devices dispensed by the dialysis drug or device  
25 distributor.

1           Sec. 979. Section 71-1,147.52, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           ~~71-1,147.52~~ The delegating pharmacist or the on-call  
4 pharmacist shall not be held liable for acts or omissions on  
5 the part of an individual dispensing pursuant to the delegated  
6 dispensing permit.

7           Sec. 980. Section 71-1,147.53, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9           ~~71-1,147.53~~ Under a delegated dispensing permit for a  
10 public health clinic, approved formulary drugs and devices may  
11 be dispensed by a public health clinic worker or a health care  
12 professional licensed in Nebraska to practice medicine and surgery  
13 or licensed in Nebraska as a registered nurse, licensed practical  
14 nurse, or physician assistant without the onsite services of a  
15 pharmacist if:

16           (1) The initial dispensing of all prescriptions for  
17 approved formulary drugs and devices is conducted by a health care  
18 professional licensed in Nebraska to practice medicine and surgery  
19 or pharmacy or licensed in Nebraska as a registered nurse, licensed  
20 practical nurse, or physician assistant;

21           (2) The drug or device is dispensed pursuant to a  
22 prescription written on site by a practitioner;

23           (3) The only prescriptions to be refilled under  
24 the delegated dispensing permit are prescriptions for oral  
25 contraceptives;

1           (4) Prescriptions are accompanied by patient instructions  
2 and written information approved by the ~~Director of Regulation and~~  
3 ~~Licensure,~~ director;

4           (5) The dispensing of authorized refills of oral  
5 contraceptives is done by a licensed health care professional  
6 listed in subdivision (1) of this section or by a public health  
7 clinic worker;

8           (6) All drugs or devices are prepackaged by the  
9 manufacturer or at a public health clinic by a pharmacist into  
10 the quantity to be prescribed and dispensed at the public health  
11 clinic;

12           (7) All drugs and devices stored, received, or dispensed  
13 under the authority of public health clinics are properly labeled  
14 at all times. For purposes of this subdivision, properly labeled  
15 means that the label affixed to the container prior to dispensing  
16 contains the following information:

17           (a) The name of the manufacturer;

18           (b) The lot number and expiration date from the  
19 manufacturer or, if prepackaged by a pharmacist, the lot number and  
20 calculated expiration date. Calculated expiration date means the  
21 expiration date on the manufacturer's container or one year from  
22 the date the drug is repackaged, whichever is earlier;

23           (c) Directions for patient use;

24           (d) The quantity of drug in the container;

25           (e) The name, strength, and dosage form of the drug; and

1 (f) Auxiliary labels as needed for proper adherence to  
2 any prescription;

3 (8) The following additional information is added to the  
4 label of each container when the drug or device is dispensed:

5 (a) The patient's name;

6 (b) The name of the prescribing health care professional;

7 (c) The prescription number;

8 (d) The date dispensed; and

9 (e) The name and address of the public health clinic;

10 (9) The only drugs and devices allowed to be dispensed or  
11 stored by public health clinics appear on the formulary approved  
12 pursuant to section ~~71-1,147.48~~; 977 of this act; and

13 (10) At any time that dispensing is occurring from a  
14 public health clinic, the delegating pharmacist for the public  
15 health clinic or on-call pharmacist in Nebraska is available,  
16 either in person or by telephone, to answer questions from  
17 clients, staff, public health clinic workers, or volunteers. This  
18 availability shall be confirmed and documented at the beginning  
19 of each day that dispensing will occur. The delegating pharmacist  
20 or on-call pharmacist shall inform the public health clinic if  
21 he or she will not be available during the time that his or  
22 her availability is required. If a pharmacist is unavailable, no  
23 dispensing shall occur.

24 Sec. 981. Section 71-1,147.54, Reissue Revised Statutes  
25 of Nebraska, is amended to read:



1           ~~71-1,147.54~~ No person shall act as a public health clinic  
2 worker in a public health clinic or as a dialysis drug or device  
3 distributor worker for a dialysis drug or device distributor unless  
4 the person:

5           (1) Is at least eighteen years of age;

6           (2) Has earned a high school diploma or the equivalent;

7           (3) Has completed approved training as provided in  
8 section ~~71-1,147.55~~, 982 of this act; and

9           (4) Has demonstrated proficiency as provided in section  
10 ~~71-1,147.56~~, 983 of this act.

11           Sec. 982. Section 71-1,147.55, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           ~~71-1,147.55~~ (1) A delegating pharmacist shall conduct the  
14 training of public health clinic workers. The training shall be  
15 approved in advance by ~~the department upon the recommendation of~~  
16 the board. The board shall base its ~~recommendation~~ approval upon  
17 the standards determined by the Public Health Clinic Formulary  
18 Advisory Committee.

19           (2) A delegating pharmacist shall conduct training of  
20 dialysis drug or device distributor workers. The training shall  
21 be based upon the standards approved by ~~the department upon~~  
22 ~~recommendation~~ of the board.

23           (3) The public health clinic, the dialysis drug or device  
24 distributor, and the delegating pharmacist shall be responsible to  
25 assure that approved training has occurred and is documented.

1           Sec. 983. Section 71-1,147.56, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           ~~71-1,147.56~~ (1) A public health clinic worker or dialysis  
4 drug or device distributor worker shall demonstrate proficiency to  
5 the delegating pharmacist, according to the standards ~~determined by~~  
6 ~~the department upon recommendation of~~ approved by the board. The  
7 delegating pharmacist shall document proficiency for each worker.  
8 In addition, a public health clinic worker shall be supervised by  
9 a licensed health care professional specified in subdivision (1) of  
10 section ~~71-1,147.53~~ 980 of this act for the first month that such  
11 worker is dispensing refills of oral contraceptives.

12           (2) Following initial training and proficiency  
13 demonstration, the public health clinic worker or dialysis drug or  
14 device distributor worker shall demonstrate continued proficiency  
15 at least annually. A dialysis drug or device distributor worker  
16 shall attend annual training programs taught by a pharmacist.  
17 Documentation of such training shall be maintained in the worker's  
18 employee file.

19           (3) The public health clinic or dialysis drug or device  
20 distributor for which a public health clinic worker or dialysis  
21 drug or device distributor worker is working shall be liable for  
22 acts or omissions on the part of such worker.

23           Sec. 984. Section 71-1,147.57, Reissue Revised Statutes  
24 of Nebraska, is amended to read:

25           ~~71-1,147.57~~ A delegating pharmacist shall conduct the

1 training of all licensed health care professionals specified in  
2 subdivision (1) of section ~~71-1,147.53~~ 980 of this act and who are  
3 dispensing pursuant to the delegated dispensing permit of a public  
4 health clinic. The training shall be approved in advance by ~~the~~  
5 ~~department upon the recommendation of~~ the board. The board shall  
6 base its ~~recommendation~~ approval upon the standards determined by  
7 the Public Health Clinic Formulary Advisory Committee.

8           Sec. 985. Section 71-1,147.59, Reissue Revised Statutes  
9 of Nebraska, is amended to read:

10           ~~71-1,147.59~~ (1) The board may appoint formulary advisory  
11 committees as deemed necessary for the determination of formularies  
12 for delegated dispensing permittees.

13           (2) The Public Health Clinic Formulary Advisory Committee  
14 is created. The committee shall consist of eight members as  
15 follows:

16           (a) Two members designated by the board;

17           (b) Two members who are employees of the department  
18 with knowledge of and interest in reproductive health and sexually  
19 transmitted diseases;

20           (c) Two members who are licensed pharmacists in this  
21 state and who are selected by the ~~Director of Regulation and~~  
22 ~~Licensure.~~ director. The Nebraska Pharmacists Association may  
23 submit to the director a list of five persons of recognized ability  
24 in the profession. If such a list is submitted, the director shall  
25 consider the names on such list and may appoint one or more of

1 the persons so named. The director may appoint any qualified person  
2 even if such person is not named on the list submitted by the  
3 association; and

4 (d) Two members who are employees of public health  
5 clinics which hold or will hold a delegated dispensing permit and  
6 who are selected by the director from names recommended by such  
7 public health clinics.

8 (3) Designations and recommendations shall be made and  
9 submitted to the director in July prior to the third quarter  
10 meeting of the committee. Members shall serve for terms of two  
11 years each beginning with the third quarter meeting. Members may  
12 serve for consecutive terms as approved by the director. The  
13 director may remove a member of the committee for inefficiency,  
14 neglect of duty, or misconduct in office.

15 Sec. 986. Section 71-1,147.33, Revised Statutes  
16 Cumulative Supplement, 2006, is amended to read:

17 ~~71-1,147.33~~ (1) A pharmacy technician shall only perform  
18 tasks which do not require professional judgment and which are  
19 subject to verification to assist a pharmacist in the practice of  
20 pharmacy.

21 (2) The functions and tasks which shall not be performed  
22 by pharmacy technicians or individuals dispensing pursuant to a  
23 delegated dispensing permit include, but are not limited to:

24 (a) Receiving oral medical orders from a practitioner or  
25 his or her agent;

- 1 (b) Providing patient counseling;
- 2 (c) Performing any evaluation or necessary clarification  
3 of a medical order or performing any functions other than strictly  
4 clerical functions involving a medical order;
- 5 (d) Supervising or verifying the tasks and functions of  
6 pharmacy technicians;
- 7 (e) Interpreting or evaluating the data contained in a  
8 patient's record maintained pursuant to section ~~71-1,147.35~~, 965 of  
9 this act;
- 10 (f) Releasing any confidential information maintained by  
11 the pharmacy;
- 12 (g) Performing any professional consultations; and
- 13 (h) Drug product selecting, with regard to an individual  
14 medical order, in accordance with the Nebraska Drug Product  
15 Selection Act.
- 16 (3) ~~The Director of Regulation and Licensure~~ director  
17 shall, ~~upon~~ with the recommendation of the board, waive any of  
18 the limitations in subsection (2) of this section for purposes of  
19 a scientific study of the role of pharmacy technicians approved  
20 by the board. Such study shall be based upon providing improved  
21 patient care or enhanced pharmaceutical care. Any such waiver shall  
22 state the length of the study and shall require that all study data  
23 and results be made available to the board upon the completion of  
24 the study. Nothing in this subsection shall require the board to  
25 approve any study proposed by this subsection.

1           (4) The pharmacy employing pharmacy technicians shall  
2 be responsible for the supervision and performance of such  
3 technicians.

4           (5) The pharmacist in charge shall be responsible  
5 for the practice of pharmacy and the establishment of written  
6 control procedures and guidelines governing the qualifications,  
7 onsite training, functions, supervision, and verification of the  
8 performance of pharmacy technicians. The supervision of such  
9 technicians at the place of employment shall be performed by  
10 the licensed pharmacist who is on duty in the facility with the  
11 pharmacy technicians.

12           (6) (a) Each pharmacy shall document, in a manner  
13 and method specified in the written control procedures and  
14 guidelines, the basic competence of the pharmacy technician prior  
15 to performance of tasks and functions by such technician. Such  
16 basic competence shall include, but not be limited to:

17           (i) Basic pharmaceutical nomenclature;

18           (ii) Metric system measures, both liquid and solid;

19           (iii) The meaning and use of Roman numerals;

20           (iv) Abbreviations used for dosages and directions to  
21 patients;

22           (v) Basic medical terms, including terms relating to  
23 ailments, diseases, or infirmities;

24           (vi) The use and operation of automated dispensing and  
25 record-keeping systems if used by the employing pharmacy;

1           (vii) Applicable statutes, rules, and regulations  
2 governing the preparation, compounding, dispensing, and  
3 distribution of drugs or devices, record keeping with regard to  
4 such functions, and the employment, use, and functions of pharmacy  
5 technicians; and

6           (viii) The contents of the written control procedures and  
7 guidelines.

8           (b) Written control procedures and guidelines shall  
9 specify the functions that pharmacy technicians may perform in the  
10 employing pharmacy. The written control procedures and guidelines  
11 shall specify the means used by the employing pharmacy to verify  
12 that the prescribed drug or device, the dosage form, and the  
13 directions provided to the patient or caregiver conform to the  
14 medical order authorizing the drug or device to be dispensed.

15           (c) The written control procedures and guidelines shall  
16 specify the manner in which the verification made prior to  
17 dispensing is documented.

18           (7) Each pharmacy or facility shall, before using  
19 pharmacy technicians, file with the board a copy of its written  
20 control procedures and guidelines and receive approval of its  
21 written control procedures and guidelines from the board. The  
22 board shall, within ninety days from the filing of such written  
23 control procedures and guidelines, review and either approve or  
24 disapprove them. The board shall notify the pharmacy or facility  
25 of the approval or disapproval. The board or its representatives

1 shall have access to the approved written control procedures  
2 and guidelines upon request. Any written control procedures and  
3 guidelines for supportive pharmacy personnel that were filed by a  
4 pharmacy and approved by the board prior to May 26, 1999, shall be  
5 deemed to be approved and to apply to pharmacy technicians.

6 (8) Any hospital using supportive pharmacy personnel  
7 prior to June 11, 1993, and using pharmacy technicians on or after  
8 May 1, 2001, shall file a copy of written control procedures and  
9 guidelines with the board by February 1, 2002, or such hospital  
10 shall be in violation of subsection (2) of section ~~71-1,147.~~ 963 of  
11 this act.

12 (9) (a) If pharmacy technicians perform functions  
13 requiring professional judgment and licensure as a pharmacist,  
14 perform functions not specified under approved written control  
15 procedures and guidelines, or perform functions without supervision  
16 and such acts are known to the pharmacist supervising the pharmacy  
17 technicians or the pharmacist in charge or are of such a nature  
18 that they should have been known to a reasonable person, such acts  
19 may be considered acts of unprofessional conduct on the part of the  
20 pharmacist supervising the pharmacy technicians or the pharmacist  
21 in charge pursuant to section ~~71-147~~ 78 of this act against whom  
22 disciplinary measures may be taken.

23 (b) Acts described in subdivision (a) of this subsection  
24 may be grounds for the department, ~~upon~~ with the recommendation of  
25 the board, to apply to the district court in the judicial district



1 in which the pharmacy is located for an order to cease and desist  
2 from the performance of any unauthorized acts. On or at any time  
3 after such application the court may, in its discretion, issue an  
4 order restraining such pharmacy or its agents or employees from  
5 the performance of unauthorized acts. After a full hearing the  
6 court shall either grant or deny the application. Such order shall  
7 continue until the court, after a like hearing, finds the basis for  
8 such order has been removed.

9           Sec. 987. Section 71-1,147.34, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11           ~~71-1,147.34~~ (1) Disciplinary action may be taken against  
12 the license of the employing pharmacy or the license of the  
13 hospital pursuant to the Health Care Facility Licensure Act, or  
14 against the license of the pharmacist in charge pursuant to section  
15 ~~71-155, 86 of this act,~~ for the failure to submit written control  
16 procedures and guidelines and to receive board approval prior to  
17 the employment of pharmacy technicians.

18           (2) Disciplinary action may be taken in accordance with  
19 section ~~71-155 86 of this act~~ against the supervising pharmacist  
20 who is on duty in the pharmacy and is responsible for the  
21 supervision of pharmacy technicians for his or her failure or  
22 the failure of the pharmacists or pharmacy technicians to follow  
23 approved written control procedures and guidelines.

24           (3) Disciplinary action may be taken in accordance with  
25 section ~~71-155 86 of this act~~ against the supervising pharmacist

1 who is on duty in the pharmacy and is responsible for the  
2 supervision of pharmacy technicians for any failure to properly  
3 verify the accuracy and completeness of the acts, tasks, or  
4 functions undertaken by pharmacy technicians, which failure results  
5 in a discrepancy in the dispensing process.

6 (4) Disciplinary action may be taken in accordance with  
7 section ~~71-155~~ 86 of this act against the license of a pharmacist  
8 in charge, or in accordance with the Health Care Facility Licensure  
9 Act against the license of the pharmacy or the hospital, for the  
10 hiring and employment of an individual to serve as a pharmacy  
11 technician when the pharmacist, pharmacy, or hospital knew or  
12 reasonably should have known that such individual was not qualified  
13 by law to so serve.

14 Sec. 988. The department shall establish and collect fees  
15 for credentialing under the Pharmacy Practice Act as provided in  
16 sections 51 to 57 of this act.

17 Sec. 989. Section 71-1,148, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 ~~71-1,148~~ The department, ~~upon~~ with the recommendation  
20 of the board, shall adopt and promulgate rules and regulations  
21 as deemed necessary to implement sections ~~71-1,142 to 71-1,151,~~  
22 ~~71-2401 to 71-2405,~~ and 71-2501 to 71-2512, the Mail Service  
23 Pharmacy Licensure Act, the Nebraska Drug Product Selection Act,  
24 the Pharmacy Practice Act, and the Uniform Controlled Substances  
25 Act. The minimum standards and requirements for the practice of

1 pharmacy, including dispensing pursuant to a delegated dispensing  
2 permit, shall be consistent with the minimum standards and  
3 requirements established by the department for pharmacy licenses  
4 under the Health Care Facility Licensure Act.

5 Sec. 990. Section 71-1,149, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 ~~71-1,149~~ The department may place under seal all drugs or  
8 devices that are owned by or in the possession, custody, or control  
9 of a licensee or permittee under ~~sections 71-1,142 to 71-1,151~~ the  
10 Pharmacy Practice Act at the time his or her license or permit  
11 is suspended or revoked or at the time the board or department  
12 refuses to renew his or her license or permit. Except as otherwise  
13 provided in this section, drugs or devices so sealed shall not be  
14 disposed of until appeal rights under the Administrative Procedure  
15 Act have expired or an appeal filed pursuant to the act has been  
16 determined. The court involved in an appeal filed pursuant to the  
17 Administrative Procedure Act may order the department during the  
18 pendency of the appeal to sell sealed drugs or devices that are  
19 perishable. The proceeds of such a sale shall be deposited with the  
20 court.

21 Sec. 991. Only a licensed pharmacist who is or who has  
22 been engaged in the active practice of pharmacy shall be appointed  
23 by the department to serve as a pharmacy inspector with the consent  
24 and approval of the board.

25 Sec. 992. Section 71-1,147.15, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 ~~71-1,147.15~~ It shall be unlawful to distribute, dispense,  
3 or vend any drug by automatic or vending machine, except that this  
4 ~~prohibition section~~ shall not apply to a facility.

5 Sec. 993. Section 71-1,147.13, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7 ~~71-1,147.13~~ Any person who does or commits any of the  
8 acts or things prohibited by ~~sections 71-1,142 to 71-1,151~~ the  
9 Pharmacy Practice Act or otherwise violates any of the provisions  
10 thereof shall be guilty of a Class II misdemeanor except as  
11 otherwise specifically provided.

12 Sec. 994. Section 71-1,362, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 ~~71-1,362~~ Sections ~~71-1,362 to 71-1,389~~ 994 to 1022 of  
15 this act shall be known and may be cited as the Physical Therapy  
16 Practice Act.

17 Sec. 995. Section 71-1,363, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 ~~71-1,363~~ The purpose of the Physical Therapy Practice Act  
20 is to update and recodify statutes relating to the practice of  
21 physical therapy. Nothing in the act shall be construed to expand  
22 the scope of practice of physical therapy as it existed prior to  
23 July 14, 2006.

24 Sec. 996. Section 71-1,364, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

1           ~~71-1,364~~ For purposes of the Physical Therapy Practice  
2 Act, the definitions found in sections ~~71-1,365 to 71-1,380~~ 997 to  
3 1011 of this act apply.

4           Sec. 997. Section 71-1,365, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           ~~71-1,365~~ Approved educational program means a program for  
7 the education and training of physical therapists and physical  
8 therapist assistants approved by the board pursuant to section  
9 ~~71-1,388.~~ 1019 of this act.

10          Sec. 998. Section 71-1,366, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12          ~~71-1,366~~ Board means the Board of Physical Therapy.

13          Sec. 999. Section 71-1,368, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15          ~~71-1,368~~ Direct supervision means supervision in which  
16 the supervising practitioner is physically present and immediately  
17 available and does not include supervision provided by means of  
18 telecommunication.

19          Sec. 1000. Section 71-1,369, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21          ~~71-1,369~~ Evaluation means the process of making clinical  
22 judgments based on data gathered from examination of a patient.

23          Sec. 1001. Section 71-1,370, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25          ~~71-1,370~~ General supervision means supervision either

1 onsite or by means of telecommunication.

2           Sec. 1002. Section 71-1,371, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           ~~71-1,371~~ Jurisdiction of the United States means any  
5 state of the United States, the District of Columbia, the  
6 Commonwealth of Puerto Rico, or any American territory.

7           Sec. 1003. Section 71-1,372, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           ~~71-1,372~~ Mobilization or manual therapy means a group of  
10 techniques comprising a continuum of skilled passive movements to  
11 the joints or related soft tissues, or both, throughout the normal  
12 physiological range of motion that are applied at varying speeds  
13 and amplitudes, without limitation.

14           Sec. 1004. Section 71-1,373, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           ~~71-1,373~~ Non-treatment-related tasks means clerical,  
17 housekeeping, facility maintenance, or patient transportation  
18 services related to the practice of physical therapy.

19           Sec. 1005. Section 71-1,374, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           ~~71-1,374~~ Physical therapist means a person licensed to  
22 practice physical therapy under the Physical Therapy Practice Act.

23           Sec. 1006. Section 71-1,375, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           ~~71-1,375~~ Physical therapist assistant means a person

1 certified as a physical therapist assistant under the Physical  
2 Therapy Practice Act.

3 Sec. 1007. Section 71-1,376, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 ~~71-1,376~~ Physical therapy or physiotherapy means:

6 (1) Examining, evaluating, and testing individuals  
7 with mechanical, physiological, and developmental impairments,  
8 functional limitations, and disabilities or other conditions  
9 related to health and movement and, through analysis of the  
10 evaluative process, developing a plan of therapeutic intervention  
11 and prognosis while assessing the ongoing effects of the  
12 intervention;

13 (2) Alleviating impairment, functional limitation, or  
14 disabilities by designing, implementing, or modifying therapeutic  
15 interventions which may include any of the following: Therapeutic  
16 exercise; functional training in home, community, or work  
17 integration or reintegration related to physical movement and  
18 mobility; therapeutic massage; mobilization or manual therapy;  
19 recommendation, application, and fabrication of assistive,  
20 adaptive, protective, and supportive devices and equipment;  
21 airway clearance techniques; integumentary protection techniques;  
22 nonsurgical debridement and wound care; physical agents or  
23 modalities; mechanical and electrotherapeutic modalities; and  
24 patient-related instruction; but which does not include the making  
25 of a medical diagnosis;

1           (3) Purchasing, storing, and administering topical  
2 and aerosol medication in compliance with applicable rules and  
3 regulations of the Board of Pharmacy regarding the storage of such  
4 medication;

5           (4) Reducing the risk of injury, impairment, functional  
6 limitation, or disability, including the promotion and maintenance  
7 of fitness, health, and wellness; and

8           (5) Engaging in administration, consultation, education,  
9 and research.

10           Sec. 1008. Section 71-1,377, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           ~~71-1,377~~ Physical therapy aide means a person who is  
13 trained under the direction of a physical therapist and who  
14 performs treatment-related and non-treatment-related tasks.

15           Sec. 1009. Section 71-1,378, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           ~~71-1,378~~ Student means a person enrolled in an approved  
18 educational program.

19           Sec. 1010. Section 71-1,379, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           ~~71-1,379~~ Testing means standard methods and techniques  
22 used to gather data about a patient. Testing includes surface  
23 electromyography and, subject to approval of the board, fine  
24 wire electromyography. Testing excludes diagnostic needle  
25 electromyography.



1           Sec. 1011. Section 71-1,380, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           ~~71-1,380~~ Treatment-related tasks means activities related  
4 to the practice of physical therapy that do not require the  
5 clinical decisionmaking of a physical therapist or the clinical  
6 problem solving of a physical therapist assistant.

7           Sec. 1012. Section 71-1,381, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           ~~71-1,381~~ (1) No person may practice physical therapy,  
10 hold oneself out as a physical therapist or physiotherapist, or  
11 use the abbreviation PT in this state without being licensed by  
12 the department. No person may practice as a physical therapist  
13 assistant, hold oneself out as a physical therapist assistant, or  
14 use the abbreviation PTA in this state without being certified by  
15 the department.

16           (2) A physical therapist may use the title physical  
17 therapist or physiotherapist and the abbreviation PT in connection  
18 with his or her name or place of business. A physical therapist  
19 assistant may use the title physical therapist assistant and the  
20 abbreviation PTA in connection with his or her name.

21           (3) No person who offers or provides services to another  
22 or bills another for services shall characterize such services as  
23 physical therapy or physiotherapy unless such services are provided  
24 by a physical therapist or a physical therapist assistant acting  
25 under the general supervision of a physical therapist.

1                   Sec. 1013. Section 71-1,382, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3                   ~~71-1,382~~ The following classes of persons shall not be  
4 construed to be engaged in the unauthorized practice of physical  
5 therapy:

6                   (1) A member of another profession who is credentialed by  
7 the department and who is acting within the scope of practice of  
8 his or her profession;

9                   (2) A student in an approved educational program who is  
10 performing physical therapy or related services within the scope  
11 of such program and under the direct supervision of a physical  
12 therapist;

13                   (3) A person practicing physical therapy or as a physical  
14 therapist assistant in this state ~~pursuant to federal regulations~~  
15 ~~for state licensure of health care providers for~~ who serves in  
16 the armed forces of the United States Armed Forces, or the United  
17 States Public Health Service, or who is employed by the United  
18 States Department of Veterans Affairs or other federal agencies, if  
19 their practice is limited to that service or employment;

20                   (4) A person credentialed to practice physical therapy  
21 or as a physical therapist assistant in another jurisdiction of  
22 the United States or in another country who is teaching physical  
23 therapy or demonstrating or providing physical therapy or related  
24 services in connection with an educational program in this state;

25                   (5) A person credentialed to practice physical therapy

1 in another jurisdiction of the United States or in another country  
2 who, by contract or employment, is providing physical therapy  
3 or related services in this state to individuals affiliated with  
4 established athletic teams, athletic organizations, or performing  
5 arts companies while such teams, organizations, or companies are  
6 present and temporarily practicing, competing, or performing in  
7 this state; or

8 (6) A person employed by a school district, educational  
9 service unit, or other public or private educational institution  
10 or entity serving ~~pre-kindergarten~~ prekindergarten through  
11 twelfth grade students who is providing personal assistance  
12 services, including mobility and transfer activities, such as  
13 assisting with ambulation with and without aids; positioning in  
14 adaptive equipment; application of braces; encouraging active  
15 range-of-motion exercises; assisting with passive range-of-motion  
16 exercises; assisting with transfers with or without mechanical  
17 devices; and such other personal assistance services based on  
18 individual needs as are suitable to providing an appropriate  
19 educational program.

20 Sec. 1014. Section 71-1,383, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 ~~71-1,383~~ Every applicant for a license to practice  
23 physical therapy shall:

24 (1) Present proof of completion of an approved  
25 educational program;

1           (2) In the case of an applicant who has been trained as a  
2 physical therapist in a foreign country, (a) present documentation  
3 of completion of a course of professional instruction substantially  
4 equivalent to an approved program accredited by the Commission on  
5 Accreditation in Physical Therapy Education or by an equivalent  
6 accrediting agency as determined by the board and (b) present proof  
7 of proficiency in the English language; and

8           (3) Successfully complete an examination approved by the  
9 department, with the ~~upon~~ recommendation of the board.

10           Sec. 1015. Section 71-1,384, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           ~~71-1,384~~ Every applicant for a certificate to practice as  
13 a physical therapist assistant shall:

14           (1) Present proof of completion of an approved  
15 educational program; and

16           (2) Successfully complete an examination approved by the  
17 department, with the ~~upon~~ recommendation of the board.

18           Sec. 1016. An applicant for licensure to practice as  
19 a physical therapist who has met the education and examination  
20 requirements in section 1014 of this act or to practice as  
21 a physical therapist assistant who has met the education and  
22 examination requirements in section 1015 of this act, who passed  
23 the examination more than three years prior to the time of  
24 application for licensure, and who is not practicing at the time  
25 of application for licensure shall present proof satisfactory

1 to the department that he or she has within the three years  
2 immediately preceding the application for licensure completed  
3 continuing competency requirements approved by the board pursuant  
4 to section 45 of this act.

5           Sec. 1017. An applicant for licensure to practice as a  
6 physical therapist or to practice as a physical therapist assistant  
7 who has met the standards set by the board pursuant to section  
8 26 of this act for a license based on licensure in another  
9 jurisdiction but is not practicing at the time of application  
10 for licensure shall present proof satisfactory to the department  
11 that he or she has within the three years immediately preceding  
12 the application for licensure completed continuing competency  
13 requirements approved by the board pursuant to section 45 of  
14 this act.

15           Sec. 1018. The department shall establish and collect  
16 fees for credentialing activities as provided in sections 51 to 57  
17 of this act.

18           Sec. 1019. Section 71-1,388, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           ~~71-1,388~~ The board may approve programs for physical  
21 therapy or physical therapist assistant education and training.  
22 Such approval may be based on the program's accreditation by  
23 the Commission on Accreditation in Physical Therapy Education or  
24 equivalent standards established by the board.

25           Sec. 1020. Section 71-1,385, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 ~~71-1,385~~ (1) A physical therapist assistant may perform  
3 physical therapy services under the general supervision of a  
4 physical therapist, except that no physical therapist assistant  
5 shall perform the following:

- 6 (a) Interpretation of physician referrals;  
7 (b) Development of a plan of care;  
8 (c) Initial evaluations or reevaluation of patients;  
9 (d) Readjustment of a plan of care without consultation  
10 with the supervising physical therapist; or  
11 (e) Discharge planning for patients.

12 (2) A physical therapist may provide general supervision  
13 for no more than two physical therapist assistants. A physical  
14 therapist shall not establish a satellite office at which a  
15 physical therapist assistant provides care without the general  
16 supervision of the physical therapist.

17 (3) A physical therapist shall reevaluate or reexamine on  
18 a regular basis each patient receiving physical therapy services  
19 from a physical therapist assistant under the general supervision  
20 of the physical therapist.

21 (4) A supervising physical therapist and the physical  
22 therapist assistant under general supervision shall review the plan  
23 of care on a regular basis for each patient receiving physical  
24 therapy services from the physical therapist assistant.

25 (5) A physical therapist assistant may document physical

1 therapy services provided by the physical therapist assistant  
2 without the signature of the supervising physical therapist.

3 (6) A physical therapist assistant may act as a clinical  
4 instructor for physical therapist assistant students in an approved  
5 educational program.

6 Sec. 1021. Section 71-1,386, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 ~~71-1,386~~ (1) For each patient under his or her care, a  
9 physical therapist shall:

10 (a) Be responsible for managing all aspects of physical  
11 therapy services provided to the patient and assume legal liability  
12 for physical therapy and related services provided under his or her  
13 supervision;

14 (b) Provide an initial evaluation and documentation of  
15 the evaluation;

16 (c) Provide periodic reevaluation and documentation of  
17 the reevaluation;

18 (d) Provide documentation for discharge, including the  
19 patient's response to therapeutic intervention at the time of  
20 discharge; and

21 (e) Be responsible for accurate documentation and billing  
22 for services provided.

23 (2) For each patient under his or her care on each date  
24 physical therapy services are provided to such patient, a physical  
25 therapist shall:

1 (a) Provide all therapeutic interventions that require  
2 the expertise of a physical therapist; and

3 (b) Determine the appropriate use of physical therapist  
4 assistants or physical therapy aides.

5 Sec. 1022. Section 71-1,387, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 ~~71-1,387~~ A physical therapy aide may perform  
8 treatment-related and non-treatment-related tasks under the  
9 supervision of a physical therapist or a physical therapist  
10 assistant.

11 Sec. 1023. Sections 1023 to 1034 of this act shall be  
12 known and may be cited as the Podiatry Practice Act.

13 Sec. 1024. For purposes of the Podiatry Practice Act  
14 and elsewhere in the Uniform Credentialing Act, unless the context  
15 otherwise requires, the definitions found in sections 1025 to 1027  
16 of this act apply.

17 Sec. 1025. Board means the Board of Podiatry.

18 Sec. 1026. Podiatrist means a physician of the foot,  
19 ankle, and related governing structures.

20 Sec. 1027. Practice of podiatry means the diagnosis or  
21 medical, physical, or surgical treatment of the ailments of the  
22 human foot, ankle, and related governing structures except (1) the  
23 amputation of the forefoot, (2) the general medical treatment of  
24 any systemic disease causing manifestations in the foot, and (3)  
25 the administration of anesthetics other than local.



1           Sec. 1028. Section 71-173, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-173 For purposes of the Uniform Licensing Law:~~

4           ~~(1) The following persons shall be deemed to be~~  
5 practicing podiatry: Persons who publicly profess to be podiatrists  
6 or who publicly profess to assume the duties incident to the  
7 practice of podiatry. ~~\_\_~~

8           ~~(2) Practice of podiatry means the diagnosis or medical,~~  
9 ~~physical, or surgical treatment of the ailments of the human~~  
10 ~~foot, ankle, and related governing structures except (a) the~~  
11 ~~amputation of the forefoot, (b) the general medical treatment of~~  
12 ~~any systemic disease causing manifestations in the foot, and (c)~~  
13 ~~the administration of anesthetics other than local, and~~

14           ~~(3) Podiatrist means a physician of the foot, ankle, and~~  
15 ~~related governing structures.~~

16           Sec. 1029. Section 71-174, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           ~~71-174 Section 71-173~~ The Podiatry Practice Act shall  
19 not be construed to include (1) licensed physicians and surgeons  
20 or licensed osteopathic physicians, (2) physicians and surgeons ~~of~~  
21 who serve in the armed forces of the United States or the United  
22 States Army, Navy, or Public Health Service when acting in the line  
23 of duty in this state, or who are employed by the United States  
24 Department of Veterans Affairs or other federal agencies, if their  
25 practice is limited to that service or employment, (3) students

1 who have not graduated from a school of podiatry and are enrolled  
2 in an approved and accredited school of podiatry when the services  
3 performed are a part of the course of study and are under the  
4 direct supervision of a licensed podiatrist, or (4) graduates of a  
5 school of podiatry currently enrolled in a postgraduate residency  
6 program approved by the Council on Podiatric Medical Education of  
7 the American Podiatric Medical Association.

8           Sec. 1030. Section 71-175, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           ~~71-175~~ Every applicant for an initial license to practice  
11 podiatry shall (1) present proof of graduation from a school of  
12 chiropody or podiatry approved by ~~the department on recommendation~~  
13 ~~of the Board of Podiatry,~~ board, (2) present proof of completion of  
14 a minimum one-year postgraduate residency program approved by the  
15 Council on Podiatric Medical Education of the American Podiatric  
16 Medical Association, and (3) pass a written examination which  
17 consists of (a) parts I and II of the examination given by the  
18 National Board of Podiatric Medical Examiners and (b) the written  
19 examination ~~prescribed~~ approved by the Board of Podiatry, and (4)  
20 present proof satisfactory to the board that he or she, within two  
21 years immediately preceding the application for licensure, (a) has  
22 been in the active practice of the profession of podiatry under a  
23 license in another state or territory of the United States or the  
24 District of Columbia for a period of one year, (b) has completed at  
25 least one year of a postgraduate residency program approved by the

1 Council on Podiatric Medical Education of the American Podiatric  
2 Medical Association, or (c) has completed continuing competency in  
3 podiatry approved by the board. Every applicant for a license to  
4 practice podiatry shall be required to pay the required fee.

5           Sec. 1031. The department shall establish and collect  
6 fees for credentialing under the Podiatry Practice Act as provided  
7 in sections 51 to 57 of this act.

8           Sec. 1032. Section 71-176, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           ~~71-176~~ No school of podiatry shall be approved and  
11 accredited by the board unless said the school is accredited by the  
12 Council on Podiatric Medical Education of the American Podiatric  
13 Medical Association.

14           Sec. 1033. Section 71-174.02, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           ~~71-174.02~~ A podiatrist shall not perform surgery on the  
17 ankle other than in a licensed hospital or ambulatory surgical  
18 center, and a podiatrist who performs surgery on the ankle in  
19 a licensed hospital or ambulatory surgical center shall have  
20 successfully completed an advanced postdoctoral surgical residency  
21 program of at least one year's duration which is recognized as  
22 suitable for that purpose by the ~~Board of Podiatry,~~ board.

23           No podiatrist initially licensed in this state on or  
24 after September 1, 2001, shall perform surgery on the ankle unless  
25 such person has successfully completed an advanced postdoctoral

1 surgical residency program of at least two years' duration which is  
2 recognized as suitable for that purpose by the ~~Board of Podiatry-~~  
3 board.

4 Sec. 1034. Section 71-176.01, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 ~~71-176.01~~ (1) ~~On and after January 1, 1996,~~ A person  
7 employed exclusively in the office or clinic of a licensed  
8 podiatrist shall not perform any of the functions described  
9 in ~~subsection (2) of section 71-3515.01~~ 654 of this act as  
10 a part of such employment unless the person is (a) licensed  
11 as a limited radiographer under the ~~Radiation Control~~ Medical  
12 Radiography Practice Act or (b) certified as provided in this  
13 section.

14 (2) The Board of Podiatry department, with the  
15 recommendation of the board, may certify a person to perform  
16 medical radiography on the anatomical regions of the ankle and  
17 foot if such person (a) has completed a fifteen-hour course of  
18 instruction, approved by the board, on radiation hygiene and  
19 podiatric radiological practices, including radiation health and  
20 safety, lower extremity anatomy, physics, concepts, physiology,  
21 techniques, positioning, equipment maintenance, and minimization  
22 of radiation exposure, and (b) passed a competency examination  
23 approved by the board. A person who has not passed the competency  
24 examination after three attempts shall successfully complete a  
25 remedial course of instruction in medical radiography, approved by

1 the board, prior to any further attempts to pass the competency  
2 examination.

3           Sec. 1035. Sections 1035 to 1066 of this act shall be  
4 known and may be cited as the Psychology Practice Act.

5           Sec. 1036. Section 71-1,206.01, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7           ~~71-1,206.01~~ For purposes of sections ~~71-1,206.01 to~~  
8 ~~71-1,206.35,~~ the Psychology Practice Act and elsewhere in the  
9 Uniform Credentialing Act, unless the context otherwise requires,  
10 the definitions found in sections ~~71-1,206.02 to 71-1,206.10~~ shall  
11 be used. 1037 to 1044 of this act apply.

12           Sec. 1037. Section 71-1,206.02, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14           ~~71-1,206.02~~ Board shall ~~mean~~ means the Board of  
15 ~~Psychologists.~~ Psychology.

16           Sec. 1038. Section 71-1,206.03, Reissue Revised Statutes  
17 of Nebraska, is amended to read:

18           ~~71-1,206.03~~ Client or patient shall ~~mean~~ means a  
19 recipient of psychological services within the context of a  
20 professional relationship. In the case of individuals with legal  
21 guardians, including minors and incompetent adults, the legal  
22 guardian shall also be considered a client or patient for  
23 decisionmaking purposes.

24           Sec. 1039. Section 71-1,206.04, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

1           ~~71-1,206.04~~ Code of conduct ~~shall mean~~ means that set of  
2 regulatory rules of professional conduct which has been adopted by  
3 the board ~~pursuant to section 71-1,206.12~~ to protect the public  
4 welfare by providing rules that govern a professional's behavior in  
5 the professional relationship.

6           Sec. 1040. Section 71-1,206.06, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8           ~~71-1,206.06~~ Institution of higher education ~~shall mean~~  
9 means a university, professional school, or other institution of  
10 higher learning that:

11           (1) In the United States, is regionally accredited by a  
12 regional or professional accrediting organization recognized by the  
13 United States Department of Education;

14           (2) In Canada, holds a membership in the Association of  
15 Universities and Colleges of Canada; or

16           (3) In other countries, is accredited by the respective  
17 official organization having such authority.

18           Sec. 1041. Section 71-1,206.07, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20           ~~71-1,206.07~~ Mental and emotional disorder ~~shall mean~~  
21 means a clinically significant behavioral or psychological syndrome  
22 or pattern that occurs in a person and is associated with present  
23 distress or disability or with significantly increased risk of  
24 suffering death, pain, disability, or an important loss of freedom.  
25 Such disorders may take many forms and have varying causes but

1 must be considered a manifestation of behavioral, psychological,  
2 or biological dysfunction in the person. Reasonable descriptions  
3 of the kinds and degrees of mental and emotional disorders may  
4 be found in the revisions of accepted nosologies such as the  
5 International Classification of Diseases and the Diagnostic and  
6 Statistical Manual of Mental Disorders.

7           Sec. 1042. Section 71-1,206.08, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9           ~~71-1,206.08~~ (1) Practice of psychology ~~shall mean~~ means  
10 the observation, description, evaluation, interpretation, or  
11 modification of human behavior by the application of psychological  
12 principles, methods, or procedures for the purpose of preventing or  
13 eliminating symptomatic, maladaptive, or undesired behavior and of  
14 enhancing interpersonal relationships, work and life adjustment,  
15 personal effectiveness, behavioral health, and mental health.

16           (2) The practice of psychology ~~shall include,~~ includes,  
17 but is not ~~be~~ limited to, psychological testing and the  
18 evaluation or assessment of personal characteristics such as  
19 intelligence, personality, abilities, interests, aptitudes, and  
20 psychophysiological and neuropsychological functioning; counseling,  
21 psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior  
22 analysis and therapy; diagnosis and treatment of mental and  
23 emotional disorders, alcoholism and substance abuse, disorders  
24 of habit or conduct, and the psychological aspects of physical  
25 illness, accident, injury, or disability; psychoeducational

1 evaluation, therapy, remediation, and consultation; and supervision  
2 of qualified individuals performing services specified in this  
3 section.

4 (3) Psychological services may be rendered to  
5 individuals, families, groups, organizations, institutions, and the  
6 public. The practice of psychology shall be construed within the  
7 meaning of this definition without regard to whether payment is  
8 received for services rendered.

9 Sec. 1043. Section 71-1,206.09, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11 ~~71-1,206.09~~ Psychologist ~~shall mean~~ means a person  
12 licensed to engage in the practice of psychology in this or another  
13 jurisdiction. The terms certified, registered, chartered, or any  
14 other term chosen by a jurisdiction to authorize the autonomous  
15 practice of psychology shall be considered equivalent terms.

16 Sec. 1044. Section 71-1,206.10, Reissue Revised Statutes  
17 of Nebraska, is amended to read:

18 ~~71-1,206.10~~ Representation as a psychologist ~~shall~~  
19 ~~mean~~ means that the person uses any title or description of  
20 services which incorporates the words psychology, psychological,  
21 or psychologist or which implies that he or she possesses expert  
22 qualification in any area of psychology or that the person offers  
23 to individuals or to groups of individuals services defined as the  
24 practice of psychology.

25 Sec. 1045. Section 71-1,206.14, Revised Statutes



1 Cumulative Supplement, 2006, is amended to read:

2 ~~71-1,206.14~~ (1) Unless otherwise expressly stated,  
3 references to licensed psychologists in the Nebraska Mental Health  
4 Commitment Act, in the Psychology Practice Act, in the Sex Offender  
5 Commitment Act, ~~in sections 71-1,206.01 to 71-1,206.35,~~ and in  
6 section 44-513 ~~shall mean~~ means only psychologists licensed under  
7 section ~~71-1,206.15 or 71-1,206.17 or subdivisions (2) and (3)~~  
8 ~~of section 71-1,206.18~~ 1048 of this act and ~~shall~~ does not mean  
9 persons holding a special license under ~~subdivision (1) of section~~  
10 ~~71-1,206.18 or under section 71-1,206.19~~ section 1050 of this act  
11 or holding a provisional license under ~~sections 71-1,206.32 to~~  
12 ~~71-1,206.35.~~ the Psychology Practice Act.

13 (2) Any reference to a person certified to practice  
14 clinical psychology under the law in effect immediately prior to  
15 September 1, 1994, and any equivalent reference under the law  
16 of another jurisdiction, including, but not limited to, certified  
17 clinical psychologist, health care practitioner in psychology, or  
18 certified health care provider, shall be construed to refer to a  
19 psychologist licensed under the Uniform Licensing Law Credentialing  
20 Act except for persons licensed under ~~subdivision (1) of section~~  
21 ~~71-1,206.18 or under section 71-1,206.19~~ section 1050 of this act  
22 or holding a provisional license under ~~sections 71-1,206.32 to~~  
23 ~~71-1,206.35.~~ the Psychology Practice Act.

24 Sec. 1046. The board shall consist of five professional  
25 members and two public members appointed pursuant to section 58 of

1 this act. The members shall meet the requirements of sections 64  
 2 and 65 of this act, except that two of the five years of experience  
 3 for professional members may have been served in teaching or  
 4 research.

5           Sec. 1047. Section 71-1,206.25, Reissue Revised Statutes  
 6 of Nebraska, is amended to read:

7           ~~71-1,206.25~~ (1) Nothing in ~~sections 71-1,206.01 to~~  
 8 ~~71-1,206.35~~ the Psychology Practice Act shall be construed to  
 9 prevent:

10           (1) The ~~the~~ teaching of psychology, the conduct of  
 11 psychological research, or the provision of psychological services  
 12 or consultation to organizations or institutions if such teaching,  
 13 research, or service does not involve the delivery or supervision  
 14 of direct psychological services to individuals or groups of  
 15 individuals who are themselves, rather than a third party, the  
 16 intended beneficiaries of such services, without regard to the  
 17 source or extent of payment for services rendered. Nothing in ~~such~~  
 18 ~~sections~~ the act shall prevent the provision of expert testimony by  
 19 psychologists who are otherwise exempted by ~~such sections.~~ the act.  
 20 Persons holding a doctoral degree in psychology from an institution  
 21 of higher education may use the title psychologist in conjunction  
 22 with the activities permitted by this ~~subsection.~~ subdivision;

23           (2) Nothing in ~~sections 71-1,206.01 to 71-1,206.35~~ shall  
 24 be construed to prevent members Members of other recognized  
 25 professions that are licensed, certified, or regulated under the

1 laws of this state from rendering services consistent with their  
2 professional training and code of ethics and within the scope of  
3 practice as set out in the statutes regulating their professional  
4 practice if they do not represent themselves to be psychologists; ~~;~~

5 (3) ~~Duly~~ Nothing in sections 71-1,206.01 to 71-1,206.35  
6 shall be construed to prevent duly recognized members of the  
7 clergy from functioning in their ministerial capacity if they do  
8 not represent themselves to be psychologists or their services as  
9 psychological; ~~;~~

10 (4) Persons ~~Nothing~~ in sections 71-1,206.01 to  
11 71-1,206.35 shall be construed to prevent persons who are certified  
12 as school psychologists by the State Board of Education from  
13 using the title school psychologist and practicing psychology as  
14 defined in such sections the Psychology Practice Act if such  
15 practice is restricted to regular employment within a setting  
16 under the jurisdiction of the State Board of Education. Such  
17 individuals shall be employees of the educational setting and  
18 not independent contractors providing psychological services to  
19 educational settings; ~~or~~

20 (5) Any ~~Nothing~~ in sections 71-1,206.01 to 71-1,206.35  
21 shall be construed to prevent any of the following persons from  
22 engaging in activities defined as the practice of psychology if  
23 they do not represent themselves by the title psychologist, if they  
24 do not use terms other than psychological trainee, psychological  
25 intern, psychological resident, or psychological assistant to refer

1 to themselves, and if they perform their activities under the  
2 supervision and responsibility of a psychologist in accordance with  
3 the rules and regulations ~~of the board,~~ adopted and promulgated  
4 under the Psychology Practice Act:

5 (a) A matriculated graduate student in psychology whose  
6 activities constitute a part of the course of study for a graduate  
7 degree in psychology at an institution of higher education;

8 (b) An individual pursuing postdoctoral training or  
9 experience in psychology, including persons seeking to fulfill  
10 the requirements for licensure under ~~sections 71-1,206.01 to~~  
11 ~~71-1,206.35,~~ the act; or

12 (c) An individual with a master's degree in clinical,  
13 counseling, or educational psychology or an educational specialist  
14 degree in school psychology who administers and scores and  
15 may develop interpretations of psychological testing under the  
16 supervision of a psychologist. Such individuals shall be deemed  
17 to be conducting their duties as an extension of the legal and  
18 professional authority of the supervising psychologist and shall  
19 not independently provide interpretive information or treatment  
20 recommendations to clients or other health care professionals  
21 prior to obtaining appropriate supervision. The department, with  
22 the recommendation of the board, may adopt and promulgate rules  
23 and regulations governing the conduct and supervision of persons  
24 referred to in this subdivision, including the number of such  
25 persons that may be supervised by a licensed psychologist. Persons

1 who have carried out the duties described in this subdivision  
2 as part of their employment in institutions accredited by the  
3 Department of Health and Human Services, the State Department  
4 of Education, or the Department of Correctional Services for a  
5 period of two years prior to September 1, 1994, may use the title  
6 psychologist associate in the context of their employment in such  
7 settings. Use of the title shall be restricted to duties described  
8 in this subdivision, and the title shall be used in its entirety.  
9 Partial or abbreviated use of the title and use of the title  
10 beyond what is specifically authorized in this subdivision shall  
11 constitute the unlicensed practice of psychology.

12           Sec. 1048. Section 71-1,206.15, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14           ~~71-1,206.15~~ An applicant for licensure as a psychologist  
15 shall:

16           (1) Possess a doctoral degree from a program of graduate  
17 study in professional psychology from an institution of higher  
18 education. The degree shall be obtained from a program of graduate  
19 study in psychology that meets the standards of accreditation  
20 adopted by the American Psychological Association. Any applicant  
21 from a doctoral program in psychology that does not meet such  
22 standards shall present a certificate of retraining from a program  
23 of respecialization that does meet such standards;

24           (2) Prior to taking the examination, demonstrate that  
25 he or she has completed two years of supervised professional

1 experience. One year of such experience shall be an internship  
2 meeting the standards of accreditation adopted by the American  
3 Psychological Association, and one year shall be supervised  
4 postdoctoral experience. The criteria for appropriate supervision  
5 shall be ~~in accordance with rules and regulations adopted and~~  
6 ~~promulgated~~ determined by the board. Postdoctoral experience shall  
7 be compatible with the knowledge and skills acquired during formal  
8 doctoral or postdoctoral education in accordance with professional  
9 requirements and relevant to the intended area of practice; and

10 (3) Pass an examination. The board shall approve and  
11 the board or department shall administer examinations to qualified  
12 applicants on at least an annual basis. The board shall determine  
13 the subject matter and scope of the examination and shall require a  
14 ~~written, and may require an oral,~~ examination, an oral examination,  
15 or both a written examination and an oral examination of each  
16 candidate for licensure. The board may ~~adopt~~ and approve a national  
17 standardized examination and any examination developed by the  
18 board.

19 Sec. 1049. Section 71-1,206.16, Reissue Revised Statutes  
20 of Nebraska, is amended to read:

21 ~~71-1,206.16~~ The ~~board~~ department may waive all or  
22 portions of the examination required by section ~~71-1,206.15~~ 1048  
23 of this act (1) if a psychologist has been licensed in another  
24 jurisdiction and if the requirements for licensure in that  
25 jurisdiction are equal to or exceed the requirements for licensure

1 in Nebraska, (2) for psychologists meeting the requirements of  
2 section ~~71-1,206.20~~, 1051 of this act, or (3) for an applicant who  
3 is board-certified in an area of professional psychology by the  
4 American Board of Professional Psychology.

5 Sec. 1050. Section 71-1,206.18, Revised Statutes  
6 Cumulative Supplement, 2006, is amended to read:

7 ~~71-1,206.18 Except as provided in this section,~~ a person  
8 licensed as a psychologist under the law in effect immediately  
9 prior to September 1, 1994, but not certified in clinical  
10 psychology;

11 (1) Shall be issued a special license to practice  
12 psychology that continues existing requirements for supervision.  
13 Any psychological practice that involves the diagnosis and  
14 treatment of major mental and emotional disorders by a person  
15 holding a special license shall be done under the supervision of  
16 a licensed psychologist approved by the board in accordance with  
17 regulations developed as determined by the board. A psychologist  
18 licensed under this subdivision holding a special license shall  
19 not supervise mental health practitioners or independently evaluate  
20 persons under the Nebraska Mental Health Commitment Act or the  
21 Sex Offender Commitment Act. ~~Supervisory relationships shall be~~  
22 ~~registered with the board by a notarized letter signed by both the~~  
23 ~~supervisor and supervisee. The letter~~

24 (2) An application for a supervisory relationship shall  
25 be submitted to the department. The application shall contain:

1 (a) A general description of the supervisee's practice  
2 and the plan of supervision;

3 (b) A statement by the supervisor that he or she has  
4 the necessary experience and training to supervise this area of  
5 practice; and

6 (c) A statement by the supervisor that he or she accepts  
7 the legal and professional responsibility for the supervisee's  
8 practice with individuals having major mental and emotional  
9 disorders.

10 (3) Psychologists practicing with special licenses  
11 may continue to use the title licensed psychologist but shall  
12 disclose supervisory relationships to clients or patients for whom  
13 supervision is required and to third-party payors when relevant.  
14 Psychologists who wish to continue supervisory relationships  
15 existing immediately prior to September 1, 1994, with qualified  
16 physicians may do so if a letter as described in this subdivision  
17 is section as it existed prior to the operative date of this  
18 section was received by the board within three months after such  
19 date, September 1, 1994.

20 ~~(2) May apply for licensure before December 1, 1995,~~  
21 ~~by demonstrating that he or she has rendered psychological~~  
22 ~~diagnostic and treatment services as the major element of his or~~  
23 ~~her employment in an educational, correctional, or health care~~  
24 ~~setting for at least four years after licensure. A psychologist~~  
25 ~~demonstrating such experience shall be deemed to have met~~



1 equivalent requirements for licensure to those required by section  
2 71-1,206.15 and shall be eligible for renewal of licensure in  
3 accordance with the Uniform Licensing Law. For purposes of this  
4 subdivision:

5 (a) Educational settings shall be those which are part  
6 of a university or state college and those regulated by the State  
7 Department of Education;

8 (b) Correctional settings shall be those under the  
9 jurisdiction of the Department of Correctional Services; and

10 (c) Health care settings shall be hospitals, skilled  
11 nursing facilities, clinics, and mental health centers licensed  
12 by the Department of Health and Human Services Regulation and  
13 Licensure and accredited by the Joint Commission on Hospital  
14 Accreditation, by the Commission on Accreditation of Rehabilitation  
15 Facilities, by the Department of Health and Human Services, or by  
16 a similar or an equivalent accrediting body as determined by the  
17 board.

18 The four-year period shall be continuous and represent  
19 four years of full-time employment or a combination of half-time  
20 and full-time employment that totals four years. For purposes  
21 of this subdivision, year shall mean a calendar year except  
22 for educational settings that may define the employment year in  
23 nine-month increments. In no case shall an applicant receive four  
24 years of credit for experience accrued in less than four calendar  
25 years; or

1           ~~(3) May apply for licensure within three months of~~  
2     ~~September 1, 1994, by demonstrating that he or she has been~~  
3     ~~employed as full-time faculty in a program of graduate education~~  
4     ~~in psychology approved by the American Psychological Association~~  
5     ~~for a period not less than five years after licensure. A~~  
6     ~~person demonstrating such employment shall be deemed to have~~  
7     ~~met equivalent requirements for licensure under section 71-1,206.15~~  
8     ~~and shall be eligible for renewal of licensure in accordance with~~  
9     ~~the Uniform Licensing Law.~~

10           A person licensed but not certified to practice clinical  
11     psychology under the law in effect immediately prior to September  
12     1, 1994, who has failed the examination for clinical certification  
13     shall not be eligible to apply under subdivisions (2) and (3)  
14     of this section. The board may deny an application under such  
15     subdivisions if the applicant has had any action taken against him  
16     or her for violations of the laws licensing psychologists by the  
17     board or the boards of other jurisdictions. Such person shall be  
18     granted a special license under subdivision (1) of this section.

19           Sec. 1051. Section 71-1,206.20, Reissue Revised Statutes  
20     of Nebraska, is amended to read:

21           ~~71-1,206.20~~ Notwithstanding section ~~71-1,206.15,~~ 1048 of  
22     this act, the board department shall license an applicant who:

23           (1) Has at least twenty years of licensure to practice  
24     psychology in a United States or Canadian jurisdiction when the  
25     license was based on a doctoral degree;

1           (2) Has had no disciplinary sanction during the entire  
2 period of licensure; and

3           (3) Has passed the Nebraska board-developed examination.

4           Sec. 1052. Section 71-1,206.21, Reissue Revised Statutes  
5 of Nebraska, is amended to read:

6           ~~71-1,206.21~~ Notwithstanding section ~~71-1,206.15~~, 1048  
7 of this act, the board department may issue a license as a  
8 psychologist to any individual who qualifies for such a license  
9 pursuant to an agreement of reciprocity entered into by the  
10 department, with the recommendation of the board, with the board or  
11 boards of another jurisdiction or multiple jurisdictions.

12          Sec. 1053. Section 71-1,206.22, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14          ~~71-1,206.22~~ Nothing in sections ~~71-1,206.15~~ to  
15 ~~71-1,206.21~~ the Psychology Practice Act shall be construed to  
16 prohibit the practice of psychology in this state by a person  
17 holding a doctoral degree in psychology from an institution of  
18 higher education who is licensed as a psychologist under the laws  
19 of another jurisdiction if the requirements for a license in the  
20 other jurisdiction are equal to or exceed the requirements for  
21 licensure in Nebraska and if the person provides no more than an  
22 aggregate of thirty days of professional services as a psychologist  
23 per year as defined in the rules and regulations. ~~of the board.~~  
24 Psychologists practicing under this section shall notify the ~~board~~  
25 department of the nature and location of their practice and provide

1 evidence of their licensure in another jurisdiction.

2           Upon determination that the applicant has met the  
3 requirements of this section, the ~~board~~ department shall issue  
4 a letter permitting the practice. An individual's permission to  
5 practice under this section may be revoked if it is determined by  
6 the department that he or she has engaged in conduct defined as  
7 illegal, unprofessional, or unethical under the statutes, rules, or  
8 regulations governing the practice of psychology in Nebraska.

9           Sec. 1054. Section 71-1,206.23, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11           ~~71-1,206.23~~ A psychologist licensed under the laws of  
12 another jurisdiction may be authorized by the ~~board~~ department to  
13 practice psychology for a maximum of one year if the psychologist  
14 has made application to the ~~board~~ department for licensure and  
15 has met the educational and experience requirements for licensure  
16 in Nebraska, if the requirements for licensure in the former  
17 jurisdiction are equal to or exceed the requirements for licensure  
18 in Nebraska, and if the psychologist is not the subject of a past  
19 or pending disciplinary action in another jurisdiction. Denial of  
20 licensure shall terminate this authorization.

21           Sec. 1055. The department, with the recommendation of  
22 the board, may issue a license based on licensure in another  
23 jurisdiction to practice as a psychologist to a person who meets  
24 the requirements of the Psychology Practice Act or substantially  
25 equivalent requirements as determined by the department, with the

1 recommendation of the board.

2           Sec. 1056. Section 71-1,206.32, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           ~~71-1,206.32~~ A person who needs to obtain the required one  
5 year of supervised postdoctoral experience in psychology pursuant  
6 to subdivision (2) of section ~~71-1,206.15~~ 1048 of this act shall  
7 obtain a provisional license to practice psychology. An applicant  
8 for a provisional license to practice psychology shall:

9           (1) Have a doctoral degree from an institution of higher  
10 education in a program of graduate study in professional psychology  
11 that meets the standards of accreditation adopted by the American  
12 Psychological Association or its equivalent. If the program is not  
13 accredited by the American Psychological Association, it is the  
14 responsibility of the applicant to provide evidence of equivalence.  
15 Any applicant from a program that does not meet such standards  
16 shall present a certificate of retraining from a program of  
17 respecialization that does meet such standards;

18           (2) Have completed one year of supervised professional  
19 experience in an internship as provided in subdivision (2) of  
20 section ~~71-1,206.15~~, 1048 of this act;

21           ~~(3)(a) Apply within sixty days after August 28, 1999,~~  
22 ~~if the applicant is then in the year of registered supervised~~  
23 ~~postdoctoral experience on such date, or~~

24           ~~(b) Apply at any time after August 28, 1999, but~~  
25 (3) Apply prior to beginning the year of registered supervised

1 postdoctoral experience; and if the applicant is not in such year  
2 on such date;

3 ~~(4) Be of good moral character; and~~

4 ~~(5) (4) Submit to the department:~~

5 ~~(a) A verified complete application on a form provided by~~  
6 ~~the department;~~

7 ~~(b) (a) An official transcript showing proof of a~~  
8 ~~doctoral degree in psychology from an institution of higher~~  
9 ~~education;~~

10 ~~(c) (b) A certified copy of the applicant's birth~~  
11 ~~certificate or other evidence of having attained the age of~~  
12 ~~majority; nineteen years; and~~

13 ~~(d) (c) A registration of supervisory relationship~~  
14 ~~pursuant to subdivision (1) of section 71-1,206.18; and section~~  
15 ~~1050 of this act.~~

16 ~~(e) The required provisional license fee as established~~  
17 ~~by the department.~~

18 Sec. 1057. Section 71-1,206.33, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20 ~~71-1,206.33~~ The department shall approve or deny a  
21 complete application for a provisional license to practice  
22 psychology within one hundred fifty days after receipt of the  
23 application.

24 Sec. 1058. Section 71-1,206.34, Revised Statutes  
25 Cumulative Supplement, 2006 , is amended to read:

1           ~~71-1,206.34~~ A psychologist practicing with a provisional  
2 license shall use the title Provisionally Licensed Psychologist.  
3 A provisionally licensed psychologist shall disclose supervisory  
4 relationships to clients or patients for whom supervision is  
5 required and to third parties when relevant. A provisionally  
6 licensed psychologist shall not supervise other mental health  
7 professionals or independently evaluate persons under the Nebraska  
8 Mental Health Commitment Act or the Sex Offender Commitment Act.

9           Sec. 1059. Section 71-1,206.35, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11           ~~71-1,206.35~~ A provisional license to practice psychology  
12 expires upon receipt of a license to practice psychology or two  
13 years after the date of issuance, whichever occurs first.

14           Sec. 1060. The department shall establish and collect  
15 fees for credentialing under the Psychology Practice Act as  
16 provided in sections 51 to 57 of this act.

17           Sec. 1061. In addition to the grounds for disciplinary  
18 action found in sections 78 and 79 of this act, a credential  
19 subject to the Psychology Practice Act may be denied, refused  
20 renewal, limited, revoked, or suspended or have other disciplinary  
21 measures taken against it in accordance with section 96 of this act  
22 when the applicant or licensee fails to disclose the information  
23 required by section 1058 of this act.

24           Sec. 1062. Section 71-1,206.24, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

1           ~~71-1,206.24~~ The board shall ensure through rules and  
2 regulations and enforcement that psychologists limit their practice  
3 to demonstrated areas of competence as documented by relevant  
4 professional education, training, and experience.

5           Sec. 1063. Section 71-1,206.26, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7           ~~71-1,206.26~~ A psychologist and anyone under his or her  
8 supervision shall conduct his or her professional activities in  
9 conformity with the code of conduct. ~~Any person found guilty of~~  
10 ~~or entering a plea of no contest to any of the acts or offenses~~  
11 ~~specified in section 71-147 or 71-148 or violations of the code of~~  
12 ~~conduct shall pay the cost of all expenses of investigation and~~  
13 ~~prosecution of his or her case to the board.~~

14           Sec. 1064. Section 71-1,206.27, Reissue Revised Statutes  
15 of Nebraska, is amended to read:

16           ~~71-1,206.27~~ (1) It shall be a violation of ~~sectiens~~  
17 ~~71-1,206.01 to 71-1,206.35~~ the Psychology Practice Act for any  
18 person not licensed in accordance with ~~such sectiens~~ the act to  
19 represent himself or herself as a psychologist. It shall be a  
20 violation of ~~such sectiens~~ the act for any person not licensed in  
21 accordance with ~~such sectiens~~ the act to engage in the practice of  
22 psychology whether practicing as an individual, firm, partnership,  
23 limited liability company, corporation, agency, or other entity.

24           (2) Any person who represents himself or herself as a  
25 psychologist in violation of ~~such sectiens~~ the act or who engages



1 in the practice of psychology in violation of ~~such sections~~ the act  
2 shall be guilty of a Class II misdemeanor. Each day of violation  
3 shall constitute a separate offense.

4 (3) Any person filing or attempting to file, as his or  
5 her own, a diploma or license of another or a forged affidavit of  
6 identification shall be guilty of a Class IV felony.

7 ~~It shall be unlawful for a person whose license to~~  
8 ~~practice psychology has been suspended or revoked to practice~~  
9 ~~psychology in this state. The board may issue, with or without~~  
10 ~~reexamination, a new license to such a person whenever it deems~~  
11 ~~such course safe and just.~~

12 Sec. 1065. Section 71-1,206.29, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14 ~~71-1,206.29~~ (1) The confidential relations and  
15 communications between psychologists and their clients and patients  
16 shall be on the same basis as those between physicians and their  
17 clients and patients as provided in section 27-504.

18 (2) In judicial proceedings, whether civil, criminal, or  
19 juvenile, in legislative and administrative proceedings, and in  
20 proceedings preliminary and ancillary thereto, a client or patient,  
21 or his or her legal guardian or personal representative, may  
22 refuse to disclose or may prevent the disclosure of confidential  
23 information, including information contained in administrative  
24 records, communicated to a psychologist, or to a person reasonably  
25 believed by the client or patient to be a psychologist, or the

1 psychologist's or person's agents, for the purpose of diagnosis,  
2 evaluation, or treatment of any mental and emotional disorder. In  
3 the absence of evidence to the contrary, the psychologist shall be  
4 presumed to be authorized to claim the privilege on the client's or  
5 patient's behalf.

6 (3) This privilege may not be claimed by the client or  
7 patient, or on his or her behalf by authorized persons, in the  
8 following circumstances:

9 ~~(1)~~ (a) When abuse or harmful neglect of children,  
10 the elderly, or disabled or incompetent individuals is known or  
11 reasonably suspected;

12 ~~(2)~~ (b) When the validity of a will of a former client or  
13 patient of the psychologist is contested;

14 ~~(3)~~ (c) When such information is necessary for the  
15 psychologist to defend against a malpractice action brought by the  
16 client or patient;

17 ~~(4)~~ (d) When an immediate threat of physical violence  
18 against a readily identifiable victim is disclosed to the  
19 psychologist;

20 ~~(5)~~ (e) When an immediate threat of self-inflicted injury  
21 is disclosed to the psychologist;

22 ~~(6)~~ (f) When the client or patient, by alleging mental or  
23 emotional damages in litigation, puts his or her mental state in  
24 issue;

25 ~~(7)~~ (g) When the client or patient is examined pursuant

1 to court order;

2 ~~(8)~~ (h) When the purpose of the proceeding is to  
3 substantiate and collect on a claim for mental or emotional  
4 health services rendered to the client or patient or any other  
5 cause of action arising out of the professional relationship; or

6 ~~(9)~~ (i) In the context of investigations and hearings  
7 brought by the client or patient and conducted by the ~~board,~~  
8 department, when violations of ~~sections 71-1,206.01 to 71-1,206.35~~  
9 the Psychology Practice Act are at issue.

10 Sec. 1066. Section 71-1,206.30, Reissue Revised Statutes  
11 of Nebraska, is amended to read:

12 ~~71-1,206.30~~ (1) No monetary liability and no cause of  
13 action shall arise against any psychologist for failing to warn  
14 of and protect from a client's or patient's threatened violent  
15 behavior or failing to predict and warn of and protect from a  
16 client's or patient's violent behavior except when the client  
17 or patient has communicated to the psychologist a serious threat  
18 of physical violence against a reasonably identifiable victim or  
19 victims.

20 (2) The duty to warn of or to take reasonable precautions  
21 to provide protection from violent behavior shall arise only under  
22 the limited circumstances specified in subsection (1) of this  
23 section. The duty shall be discharged by the psychologist if  
24 reasonable efforts are made to communicate the threat to the victim  
25 or victims and to a law enforcement agency.

1           (3) No monetary liability and no cause of action shall  
2 arise against any person who is a psychologist for a confidence  
3 disclosed to third parties in an effort to discharge a duty arising  
4 under subsection (1) of this section in accordance with subsection  
5 (2) of this section.

6           Sec. 1067. Sections 1067 to 1082 of this act shall be  
7 known and may be cited as the Respiratory Care Practice Act.

8           Sec. 1068. For purposes of the Respiratory Care Practice  
9 Act and elsewhere in the Uniform Credentialing Act, unless the  
10 context otherwise requires, the definitions found in sections 1069  
11 to 1072 of this act apply.

12           Sec. 1069. Board means the Board of Respiratory Care  
13 Practice.

14           Sec. 1070. Medical director means a licensed physician  
15 who has the qualifications as described in section 1080 of this  
16 act.

17           Sec. 1071. Respiratory care means the health specialty  
18 responsible for the treatment, management, diagnostic testing,  
19 control, and care of patients with deficiencies and abnormalities  
20 associated with the cardiopulmonary system. Respiratory care shall  
21 not be limited to a hospital setting and shall include the  
22 therapeutic and diagnostic use of medical gases, administering  
23 apparatus, humidification and aerosols, ventilatory assistance and  
24 ventilatory control, postural drainage, chest physiotherapy and  
25 breathing exercises, respiratory rehabilitation, cardiopulmonary

1 resuscitation, and maintenance of nasal or oral endotracheal tubes.  
2 Respiratory care shall also include the administration of aerosol  
3 and inhalant medications to the cardiorespiratory system and  
4 specific testing techniques employed in respiratory care to assist  
5 in diagnosis, monitoring, treatment, and research. Such techniques  
6 shall include, but not be limited to, measurement of ventilatory  
7 volumes, pressures, and flows, measurement of physiologic partial  
8 pressures, pulmonary function testing, and hemodynamic and other  
9 related physiological monitoring of the cardiopulmonary system.

10           Sec. 1072. Section 71-1,227, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           ~~71-1,227 As used in sections 71-1,227 to 71-1,236, unless~~  
13 ~~the context otherwise requires:~~

14           ~~(1) Board shall mean the Board of Respiratory Care~~  
15 ~~Practice;~~

16           ~~(2) Medical director shall mean a licensed physician who~~  
17 ~~has the qualifications as described in section 71-1,229;~~

18           ~~(3) Respiratory care shall mean the health specialty~~  
19 ~~responsible for the treatment, management, diagnostic testing,~~  
20 ~~control, and care of patients with deficiencies and abnormalities~~  
21 ~~associated with the cardiopulmonary system. Respiratory care shall~~  
22 ~~not be limited to a hospital setting and shall include the~~  
23 ~~therapeutic and diagnostic use of medical gases, administering~~  
24 ~~apparatus, humidification and aerosols, ventilatory assistance and~~  
25 ~~ventilatory control, postural drainage, chest physiotherapy and~~

1 breathing exercises, respiratory rehabilitation, cardiopulmonary  
2 resuscitation, and maintenance of nasal or oral endotracheal  
3 tubes. It shall also include the administration of aerosol and  
4 inhaled medications to the cardiorespiratory system and specific  
5 testing techniques employed in respiratory care to assist in  
6 diagnosis, monitoring, treatment, and research. Such techniques  
7 shall include, but not be limited to, measurement of ventilatory  
8 volumes, pressures, and flows, measurement of physiologic partial  
9 pressures, pulmonary function testing, and hemodynamic and other  
10 related physiological monitoring of the cardiopulmonary system, and

11 ~~(4) Respiratory care practitioner shall mean~~ means:

12 ~~(a) (1)~~ (1) Any person employed in the practice of  
13 respiratory care who has the knowledge and skill necessary to  
14 administer respiratory care to patients of all ages with varied  
15 cardiopulmonary diseases and to patients in need of critical care  
16 and who is capable of serving as a resource to the physician and  
17 other health professionals in relation to the technical aspects  
18 of respiratory care including effective and safe methods for  
19 administering respiratory care; and

20 ~~(b) (2)~~ (2) A person capable of supervising, directing, or  
21 teaching less skilled personnel in the provision of respiratory  
22 care services.

23 Sec. 1073. Membership on the board shall consist of  
24 two respiratory care practitioners, one physician, and one public  
25 member.

1           Sec. 1074. Section 71-1,235, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~71-1,235 Sections 71-1,227 to 71-1,236~~ The Respiratory  
4 Care Practice Act shall not prohibit:

5           (1) The practice of respiratory care which is an integral  
6 part of the program of study by students enrolled in approved  
7 respiratory care education programs;

8           (2) The gratuitous care, including the practice of  
9 respiratory care, of the ill by a friend or member of the  
10 family or by a person who is not licensed to practice respiratory  
11 care if such person does not represent himself or herself as a  
12 respiratory care practitioner;

13           (3) The practice of respiratory care by nurses,  
14 physicians, physician assistants, physical therapists, or any other  
15 professional licensed under the Uniform Licensing Law Credentialing  
16 Act when such practice is within the scope of practice for which  
17 that person is licensed;

18           (4) The practice of any respiratory care practitioner of  
19 this state or any other state or territory while employed by the  
20 federal government or any bureau or division thereof while in the  
21 discharge of his or her official duties;

22           (5) Techniques defined as pulmonary function testing  
23 and the administration of aerosol and inhalant medications to  
24 the cardiorespiratory system as it relates to pulmonary function  
25 technology administered by a registered pulmonary function

1 technologist credentialed by the National Board for Respiratory  
2 Care or a certified pulmonary function technologist credentialed by  
3 the National Board for Respiratory Care; or

4 (6) The performance of oxygen therapy or the initiation  
5 of noninvasive positive pressure ventilation by a registered  
6 polysomnographic technologist relating to the study of sleep  
7 disorders if such procedures are performed or initiated under  
8 the supervision of a licensed physician at a facility accredited by  
9 the American Academy of Sleep Medicine.

10 Sec. 1075. Section 71-1,231, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 ~~71-1,231~~ (1) An applicant for a license to practice  
13 respiratory care shall submit to the ~~board~~ department written  
14 evidence, ~~verified by oath,~~ that the applicant has completed a  
15 respiratory care educational program accredited by the ~~American~~  
16 ~~Medical Association's Committee on Allied Health Education~~  
17 ~~and Accreditation~~ Commission on Accreditation of Allied Health  
18 Education Programs in collaboration with the ~~Joint Review Committee~~  
19 ~~for Respiratory Therapy Education~~ Committee on Accreditation for  
20 Respiratory Care or its successor or by an accrediting agency  
21 approved by the ~~department.~~ board.

22 (2) In order to be licensed, initial applicants  
23 shall pass an examination approved by ~~the department on the~~  
24 ~~recommendation~~ of the board.

25 Sec. 1076. Section 71-1,233, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2 ~~71-1,233~~ The board shall, with the approval of the  
3 department, with the recommendation of the board, shall issue  
4 a license to perform respiratory care to an applicant who, on  
5 or before July 17, 1986, has passed the Certified Respiratory  
6 Therapy Technician or Registered Respiratory Therapist examination  
7 administered by the National Board for Respiratory Care or the  
8 appropriate accrediting agency acceptable to the ~~department.~~ board.

9 Sec. 1077. An applicant for licensure to practice  
10 respiratory care who has met the education and examination  
11 requirements in section 1075 of this act, who passed the  
12 examination more than three years prior to the time of application  
13 for licensure, and who is not practicing at the time of application  
14 for licensure shall present proof satisfactory to the department  
15 that he or she has within the three years immediately preceding  
16 the application for licensure completed continuing competency  
17 requirements approved by the board pursuant to section 45 of this  
18 act.

19 Sec. 1078. An applicant for licensure to practice  
20 respiratory care who has met the standards set by the board  
21 pursuant to section 26 of this act for a license based on licensure  
22 in another jurisdiction but is not practicing at the time of  
23 application for licensure shall present proof satisfactory to the  
24 department that he or she has within the three years immediately  
25 preceding the application for licensure completed continuing

1 competency requirements approved by the board pursuant to section  
2 45 of this act.

3           Sec. 1079. The department shall establish and collect  
4 fees for credentialing under the Respiratory Care Practice Act as  
5 provided in sections 51 to 57 of this act.

6           Sec. 1080. Section 71-1,229, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~71-1,229~~ Any health care facility or home care agency  
9 providing inpatient or outpatient respiratory care service shall  
10 designate a medical director, who shall be a licensed physician who  
11 has special interest and knowledge in the diagnosis and treatment  
12 of respiratory problems. Such physician shall (1) be an active  
13 medical staff member of a licensed health care facility, (2)  
14 whenever possible be qualified by special training or experience  
15 in the management of acute and chronic respiratory disorders, and  
16 (3) be competent to monitor and assess the quality, safety, and  
17 appropriateness of the respiratory care services which are being  
18 provided. The medical director shall be accessible to and assure  
19 the competency of respiratory care practitioners and shall require  
20 that respiratory care be ordered by a physician who has medical  
21 responsibility for any patient that needs such care.

22           Sec. 1081. Section 71-1,230, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           ~~71-1,230~~ The practice of respiratory care shall be  
25 performed only under the direction of a medical director and

1 upon the order of a licensed physician.

2 Sec. 1082. Section 71-1,236, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 ~~71-1,236~~ In the event a respiratory care practitioner  
5 renders respiratory care in a hospital or health care facility,  
6 he or she shall be subject to the rules and regulations of  
7 that facility. Such rules and regulations may include, but not  
8 be limited to, reasonable requirements that the respiratory care  
9 practitioner maintain professional liability insurance with such  
10 coverage and limits as may be established by the hospital or other  
11 health care facility upon the recommendation of the medical staff.

12 Sec. 1083. Section 71-1,153, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~71-1,153~~ Sections ~~71-1,152.01 to 71-1,166~~ 1083 to 1112 of  
15 this act shall be known and may be cited as the Nebraska Veterinary  
16 Medicine and Surgery Practice Act.

17 Sec. 1084. For purposes of the Veterinary Medicine and  
18 Surgery Practice Act and elsewhere in the Uniform Credentialing  
19 Act, unless the context otherwise requires, the definitions found  
20 in sections 1085 to 1100 of this act apply.

21 Sec. 1085. Accredited school of veterinary medicine  
22 means:

23 (1) One approved by the board;

24 (2) A veterinary college or division of a university or  
25 college that offers the degree of Doctor of Veterinary Medicine or

1 its equivalent; and

2 (3) One that conforms to the standards required for  
3 accreditation by the American Veterinary Medical Association.

4 Sec. 1086. Animal means any animal other than man and  
5 includes birds, fish, and reptiles, wild or domestic, living or  
6 dead, except domestic poultry.

7 Sec. 1087. Approved veterinary technician program means:

8 (1) One approved by the board;

9 (2) A school or college that offers the degree of  
10 Veterinary Technician, a degree in veterinary technology, or the  
11 equivalent; and

12 (3) One that conforms to the standards required for  
13 accreditation by the American Veterinary Medical Association.

14 Sec. 1088. Board means the Board of Veterinary Medicine  
15 and Surgery.

16 Sec. 1089. Direct supervision means that the supervisor  
17 is on the premises and is available to the veterinary technician  
18 or unlicensed assistant who is treating the animal and the animal  
19 has been examined by a veterinarian at such times as acceptable  
20 veterinary practice requires consistent with the particular  
21 delegated animal health care task.

22 Sec. 1090. Immediate supervision means that the  
23 supervisor is on the premises and is in direct eyesight and hearing  
24 range of the animal and the veterinary technician or unlicensed  
25 assistant who is treating the animal and the animal has been

1 examined by a veterinarian at such times as acceptable veterinary  
2 practice requires consistent with the particular delegated animal  
3 health care task.

4           Sec. 1091. Indirect supervision means that the supervisor  
5 is not on the premises but is easily accessible and has given  
6 written or oral instructions for treatment of the animal and  
7 the animal has been examined by a veterinarian at such times  
8 as acceptable veterinary practice requires consistent with the  
9 particular delegated animal health care task.

10           Sec. 1092. Licensed veterinarian means a person who is  
11 validly and currently licensed to practice veterinary medicine and  
12 surgery in this state.

13           Sec. 1093. Licensed veterinary technician means an  
14 individual who is validly and currently licensed as a veterinary  
15 technician in this state.

16           Sec. 1094. Practice of veterinary medicine and surgery  
17 means:

18           (1) To diagnose, treat, correct, change, relieve, or  
19 prevent animal disease, deformity, defect, injury, or other  
20 physical or mental conditions, including the prescription or  
21 administration of any drug, medicine, biologic, apparatus,  
22 application, anesthetic, or other therapeutic or diagnostic  
23 substance or technique, and the use of any manual or mechanical  
24 procedure for testing for pregnancy or fertility or for correcting  
25 sterility or infertility. The acts described in this subdivision

1 shall not be done without a valid veterinarian-client-patient  
2 relationship;

3 (2) To render advice or recommendation with regard to any  
4 act described in subdivision (1) of this section;

5 (3) To represent, directly or indirectly, publicly or  
6 privately, an ability and willingness to do any act described in  
7 subdivision (1) of this section; and

8 (4) To use any title, words, abbreviation, or letters  
9 in a manner or under circumstances which induce the belief that  
10 the person using them is qualified to do any act described in  
11 subdivision (1) of this section.

12 Sec. 1095. Supervisor means a licensed veterinarian or  
13 licensed veterinary technician as required by statute or rule or  
14 regulation for the particular delegated task being performed by a  
15 veterinary technician or unlicensed assistant.

16 Sec. 1096. Unlicensed assistant means an individual who  
17 is not a licensed veterinarian or a licensed veterinary technician  
18 who is working in veterinary medicine.

19 Sec. 1097. Veterinarian means a person who has received a  
20 degree of Doctor of Veterinary Medicine from an accredited school  
21 of veterinary medicine or its equivalent.

22 Sec. 1098. Veterinarian-client-patient relationship means  
23 that:

24 (1) The veterinarian has assumed the responsibility for  
25 making clinical judgments regarding the health of the animal and

1 the need for medical treatment, and the client has agreed to follow  
2 the veterinarian's instructions;

3 (2) The veterinarian has sufficient knowledge of the  
4 animal to initiate at least a general or preliminary diagnosis  
5 of the medical condition of the animal. This means that the  
6 veterinarian has recently seen and is personally acquainted with  
7 the keeping and care of the animal by virtue of an examination of  
8 the animal or by medically appropriate and timely visits to the  
9 premises where the animal is kept; and

10 (3) The veterinarian is readily available or has arranged  
11 for emergency coverage and for followup evaluation in the event of  
12 adverse reactions or the failure of the treatment regimen.

13 Sec. 1099. Veterinary medicine and surgery includes  
14 veterinary surgery, obstetrics, dentistry, and all other branches  
15 or specialties of veterinary medicine.

16 Sec. 1100. Veterinary technician means an individual who  
17 has received a degree in veterinary technology from an approved  
18 veterinary technician program or its equivalent.

19 Sec. 1101. The board shall consist of five members,  
20 including three licensed veterinarians, one licensed veterinary  
21 technician, and one public member.

22 Sec. 1102. Section 71-1,152.01, Reissue Revised Statutes  
23 of Nebraska, is amended to read:

24 ~~71-1,152.01~~ The purpose of the Board of Veterinary  
25 Medicine and Surgery board is to: (1) Provide for the health,

1 safety, and welfare of the citizens; (2) insure that veterinarians  
2 and veterinary technicians serving the public meet minimum  
3 standards of proficiency and competency; (3) insure that schools of  
4 veterinary medicine and surgery and veterinary technician programs  
5 meet the educational needs of the students and qualify students to  
6 serve the public in a safe and efficient manner; and (4) control  
7 the field of veterinary medicine and surgery in the interest of  
8 consumer protection.

9           Sec. 1103. Section 71-1,155, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           ~~71-1,155~~ No person may practice veterinary medicine and  
12 surgery in the state who is not a licensed veterinarian. The  
13 ~~Nebraska~~ Veterinary Medicine and Surgery Practice Act shall not be  
14 construed to prohibit:

15           (1) An employee of the federal, state, or local  
16 government from performing his or her official duties;

17           (2) A person who is a ~~regular~~ student in a veterinary  
18 school from performing duties or actions assigned by his or her  
19 instructors or from working under the direct supervision of a  
20 licensed veterinarian; ~~during a school vacation period;~~

21           (3) A person who is a ~~regular~~ student in a ~~veterinary~~  
22 ~~technician school~~ an approved veterinary technician program from  
23 performing duties or actions assigned by his or her instructors  
24 or from working under the direct supervision of a licensed  
25 veterinarian ~~during a school vacation period;~~ or a licensed



1 veterinary technician;

2 (4) Any merchant or manufacturer from selling feed or  
3 feeds whether medicated or nonmedicated;

4 (5) A veterinarian regularly licensed in another state  
5 from consulting with a licensed veterinarian in this state;

6 (6) Any merchant or manufacturer from selling from his or  
7 her established place of business medicines, appliances, or other  
8 products used in the prevention or treatment of animal diseases  
9 or any merchant or manufacturer's representative from conducting  
10 educational meetings to explain the use of his or her products or  
11 from investigating and advising on problems developing from the use  
12 of his or her products;

13 (7) An owner of livestock or a bona fide farm or ranch  
14 employee from performing any act of vaccination, surgery, pregnancy  
15 testing, or the administration of drugs in the treatment of  
16 domestic animals under his or her custody or ownership nor the  
17 exchange of services between persons or bona fide employees who are  
18 principally farm or ranch operators or employees in the performance  
19 of these acts;

20 (8) A member of the faculty of a veterinary school  
21 or veterinary science department from performing his or her  
22 regular functions, or a person lecturing or giving instructions  
23 or demonstrations at a veterinary school or veterinary science  
24 department or in connection with a continuing competency activity;

25 (9) Any person from selling or applying any pesticide,

1 insecticide, or herbicide;

2 (10) Any person from engaging in bona fide scientific  
3 research which reasonably requires experimentation involving  
4 animals;

5 (11) Any person from treating or in any manner caring for  
6 domestic chickens, turkeys, or waterfowl, which are specifically  
7 exempted from the ~~Nebraska~~ Nebraska Veterinary Medicine and Surgery Practice  
8 Act; or

9 (12) Any person from performing dehorning or castrating  
10 livestock, not to include equidae.

11 For purposes of the ~~Nebraska~~ Nebraska Veterinary Medicine and  
12 Surgery Practice Act, castration shall be limited to the removal or  
13 destruction of male testes.

14 Sec. 1104. Section 71-1,158, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 ~~71-1,158 (1) Any person desiring~~ Each applicant for a  
17 license to practice veterinary medicine and surgery in this state  
18 shall present to the department: make written application to the  
19 board. The application shall include:

20 ~~(a) Proof that the applicant is twenty-one years of age~~  
21 ~~or more;~~

22 ~~(b) Information indicating that the applicant is a person~~  
23 ~~of good moral character;~~

24 ~~(c) (1) Proof that the applicant is a graduate of an~~  
25 accredited school of veterinary medicine or holds a certificate

1 issued by an entity that determines educational equivalence  
2 approved by the ~~department upon recommendation of the board~~  
3 indicating that the holder has demonstrated knowledge and skill  
4 equivalent to that possessed by a graduate of an accredited college  
5 of veterinary medicine; and

6 ~~(d)~~ (2) Proof that the applicant has passed an  
7 examination approved by the board; and

8 (3) Such other information and proof as the department,  
9 with the recommendation of the board, may require by rule and  
10 regulation.

11 ~~(2) The application shall be accompanied by the required~~  
12 ~~fee.~~

13 ~~(3) If the board determines that the applicant possesses~~  
14 ~~the proper qualifications, the board shall admit the applicant~~  
15 ~~to the next examination, or if the applicant is eligible for a~~  
16 ~~license without examination under section 71-1,160, the board may~~  
17 ~~forthwith recommend that he or she be issued a license. If an~~  
18 ~~applicant is found not qualified to take the examination or for a~~  
19 ~~license without examination, the board shall immediately notify the~~  
20 ~~applicant in writing of such finding and the grounds therefor.~~

21 Sec. 1105. Section 71-1,157, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~71-1,157~~ Any person holding a valid license to practice  
24 veterinary medicine and surgery in this state on October 23,  
25 1967, shall be recognized as a licensed veterinarian and shall be

1 entitled to retain such status so long as he or she complies with  
2 the ~~Nebraska~~ Nebraska Veterinary Medicine and Surgery Practice Act and the  
3 provisions of the Uniform ~~Licensing Law~~ Credentialing Act relating  
4 to veterinary medicine and surgery.

5 Sec. 1106. Section 71-1,163, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 ~~71-1,163~~ A license to practice veterinary medicine and  
8 surgery may be denied, refused renewal, limited, revoked, or  
9 suspended or have other disciplinary measures taken against it in  
10 accordance with section ~~71-155~~ 96 of this act when the applicant  
11 or licensee is guilty of any of the acts or offenses specified in  
12 sections ~~71-147 and 71-148~~ 78 and 79 of this act and for any of the  
13 following reasons:

14 (1) Fraud or dishonesty in the application or reporting  
15 of any test for disease in animals;

16 (2) Failure to keep veterinary premises and equipment in  
17 a clean and sanitary condition;

18 (3) Failure to report, as required by law, or making  
19 false report of, any contagious or infectious disease;

20 (4) Dishonesty or gross negligence in the inspection of  
21 foodstuffs or the issuance of health or inspection certificates; or

22 (5) Cruelty to animals.

23 Sec. 1107. Section 71-1,165, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~71-1,165~~ ~~(1)~~ To be a licensed veterinary technician

1 in this state, an individual shall meet one of the following  
2 requirements: ~~(a) Be (1) be a graduate of an American Veterinary~~  
3 ~~Medical Association approved veterinary technician program and (2)~~  
4 ~~receive a passing score on the a national examination for such~~  
5 ~~program as determined approved by the board.~~

6 ~~(b) On July 13, 2000, be an approved animal technician~~  
7 ~~certified under sections 71-1,168 to 71-1,185 as such sections~~  
8 ~~existed prior to such date, or~~

9 ~~(c) Have at least five years or more full-time experience~~  
10 ~~working with a veterinarian, be employed by a veterinarian on July~~  
11 ~~13, 2000, and within three years after such date receive a passing~~  
12 ~~score on the national examination described in subdivision (1)(a)~~  
13 ~~of this section as determined by the board.~~

14 ~~(2) A veterinary technician license shall be renewed~~  
15 ~~biennially. Each licensed veterinary technician shall be required~~  
16 ~~to complete continuing competency activities as required by the~~  
17 ~~board pursuant to section 71-161.09 as a prerequisite for the~~  
18 ~~licensee's next subsequent license renewal.~~

19 Sec. 1108. Section 71-1,166, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 ~~71-1,166~~ The department, with the recommendation of  
22 the board, shall adopt and promulgate rules and regulations  
23 providing for (1) licensure of veterinary technicians meeting  
24 the requirements of section ~~71-1,165~~ 1107 of this act and (2)  
25 standards for the level of supervision required for particular

1 delegated animal health care tasks and which determine which tasks  
2 may be performed by a veterinary technician and by unlicensed  
3 assistants. The level of supervision may be immediate supervision,  
4 direct supervision, or indirect supervision as determined by the  
5 department, with the recommendation of the board, based upon the  
6 complexity and requirements of the task.

7           Sec. 1109. (1) An applicant for a license to practice  
8 veterinary medicine and surgery based on a license in another state  
9 or territory of the United States or the District of Columbia shall  
10 meet the standards set by the board pursuant to section 26 of this  
11 act and shall have been actively engaged in the practice of such  
12 profession at least one of the three years immediately preceding  
13 the application under a license in another state or territory  
14 of the United States, the District of Columbia, or a Canadian  
15 province.

16           (2) An applicant for a license to practice as a  
17 veterinary technician based on a license in another state or  
18 territory of the United States or the District of Columbia shall  
19 meet the standards set by the board pursuant to section 26 of this  
20 act and shall have been actively engaged in the practice of such  
21 profession at least one of the three years immediately preceding  
22 the application under a license in another state or territory  
23 of the United States, the District of Columbia, or a Canadian  
24 province.

25           Sec. 1110. The department shall establish and collect

1 fees for credentialing under the Veterinary Medicine and Surgery  
2 Practice Act as provided in sections 51 to 57 of this act.

3           Sec. 1111. (1) Only a licensed veterinarian may advertise  
4 or offer his or her services in a manner calculated to lead others  
5 to believe that he or she is a licensed veterinarian.

6           (2) Only a licensed veterinary technician may advertise  
7 or offer his or her services in a manner calculated to lead others  
8 to believe that he or she is a licensed veterinary technician.

9           Sec. 1112. Section 71-1,164, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           ~~71-1,164~~ Unless required by any state or local law for  
12 contagious or infectious disease reporting or other public health  
13 and safety purpose, no veterinarian licensed under the ~~Nebraska~~  
14 Veterinary Medicine and Surgery Practice Act shall be required to  
15 disclose any information concerning the veterinarian's care of an  
16 animal except under a written authorization or other waiver by the  
17 veterinarian's client or pursuant to a court order or a subpoena. A  
18 veterinarian who releases information under a written authorization  
19 or other waiver by the client or pursuant to a court order or  
20 a subpoena is not liable to the client or any other person. The  
21 privilege provided by this section is waived to the extent that  
22 the veterinarian's client or the owner of the animal places the  
23 veterinarian's care and treatment of the animal or the nature and  
24 extent of injuries to the animal at issue in any civil or criminal  
25 proceeding. For purposes of this section, veterinarian includes the

1 employees or agents of the licensed veterinarian while acting for  
2 or on behalf of such veterinarian.

3 Sec. 1113. Section 12-1208, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 12-1208 (1) Upon notification pursuant to section  
6 12-1206, the society shall promptly assist in examining the  
7 discovered material to attempt to determine its origin and  
8 identity.

9 (2) If the society finds that the discovered human  
10 skeletal remains or burial goods are of non-American-Indian origin  
11 with a known or unknown identity, it shall notify the county  
12 attorney of the finding. Upon receipt of the finding, the county  
13 attorney shall cause the remains and associated burial goods to be  
14 interred in consultation with the county coroner. Reburial shall  
15 be in accordance with the wishes and at the expense of any known  
16 relatives in the order listed by section ~~71-1339~~ 561 of this  
17 act or, if no relatives are known, in an appropriate cemetery at  
18 the expense of the county in which the remains were discovered  
19 after a one-year scientific study period if such study period  
20 is considered necessary or desirable by the society. In no case  
21 shall any human skeletal remains that are reasonably identifiable  
22 as to familial or tribal origin be displayed by any entity which  
23 receives funding or official recognition from the state or any of  
24 its political subdivisions. In situations in which human skeletal  
25 remains or burial goods that are unidentifiable as to familial



1 or tribal origin are clearly found to be of extremely important,  
2 irreplaceable, and intrinsic scientific value, the remains or goods  
3 may be curated by the society until the remains or goods may be  
4 reinterred as provided in this subsection without impairing their  
5 scientific value.

6 (3) If the society finds that the discovered human  
7 skeletal remains or burial goods are of American Indian origin, it  
8 shall promptly notify in writing the Commission on Indian Affairs  
9 and any known relatives in the order listed in section ~~71-1339~~  
10 561 of this act or, if no relatives are known, any Indian tribes  
11 reasonably identified as tribally linked to such remains or goods  
12 in order to ascertain and follow the wishes of the relative or  
13 Indian tribe, if any, as to reburial or other disposition. Reburial  
14 by any such relative or Indian tribe shall be by and at the expense  
15 of such relative or Indian tribe. In cases in which reasonably  
16 identifiable American Indian human skeletal remains or burial goods  
17 are unclaimed by the appropriate relative or Indian tribe, the  
18 society shall notify all other Indian tribes which can reasonably  
19 be determined to have lived in Nebraska in order to ascertain and  
20 follow the wishes of the tribe as to reburial or other disposition.  
21 Reburial by any such tribe shall be by and at the expense of the  
22 tribe. If such remains or goods are unclaimed by the appropriate  
23 tribe, the remains or goods shall be reburied, as determined by the  
24 commission, by one of the four federally recognized Indian tribes  
25 in Nebraska.

1                   Sec. 1114. Section 25-12,123, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   25-12,123 The proceedings and records of a peer review  
4 committee of a state or local association or society composed  
5 of health practitioners licensed pursuant to the ~~provisions~~  
6 ~~of Chapter 71, article 1,~~ Uniform Credentialing Act shall be  
7 held in confidence and shall not be subject to discovery or  
8 introduction into evidence in any civil action against a person  
9 licensed pursuant to ~~section 71-102~~ the act arising out of the  
10 matters which are the subject of evaluation and review by such  
11 committee. No person who was in attendance at a meeting of such  
12 committee shall be permitted or required to testify in any such  
13 civil action as to any evidence or other matters produced or  
14 presented during the proceedings of such committee or as to any  
15 findings, recommendations, evaluations, opinions, or other actions  
16 of such committee or any members thereof, except that information,  
17 documents, or records otherwise available from original sources  
18 are not to be construed as immune from discovery or use in  
19 any such civil action merely because they were presented during  
20 proceedings of such committee. Any documents or records which have  
21 been presented to the review committee by any witness shall be  
22 returned to the witness, if requested by him or her or if ordered  
23 to be produced by a court in any action, with copies thereof  
24 to be retained by the committee at its discretion. Any person  
25 who testifies before such committee or who is a member of such

1 committee shall not be prevented from testifying as to matters  
2 within his or her knowledge, but such witness cannot be asked about  
3 his or her testimony before such a committee or opinions formed as  
4 a result of such committee hearings. Nothing in this section shall  
5 prohibit a court of record, after a hearing and for good cause  
6 arising from extraordinary circumstances being shown, from ordering  
7 the disclosure of such proceedings, minutes, records, reports, or  
8 communications.

9           Sec. 1115. Section 25-21,188.02, Revised Statutes  
10 Cumulative Supplement, 2006, is amended to read:

11           25-21,188.02 (1) A person credentialed under the Uniform  
12 ~~Licensing Law~~ Credentialing Act to practice as a physician,  
13 osteopathic physician, pharmacist, dentist, physician assistant,  
14 nurse, or physical therapist who, without the expectation or  
15 receipt of monetary or other compensation either directly or  
16 indirectly, provides professional services, of a kind which are  
17 eligible for reimbursement under the medical assistance program  
18 established pursuant to the Medical Assistance Act, as a volunteer  
19 in a free clinic or other facility operated by a not-for-profit  
20 organization as defined in section 25-21,190, by an agency of the  
21 state, or by any political subdivision shall be immune from civil  
22 liability for any act or omission which results in damage or injury  
23 unless such damage or injury was caused by the willful or wanton  
24 act or omission of such practitioner.

25           (2) The individual immunity granted by subsection (1)

1 of this section shall not extend to any act or omission of such  
2 practitioner which results in damage or injury if:

3 (a) The free clinic or other facility is operated by a  
4 licensed hospital;

5 (b) The practitioner has been disciplined by the  
6 professional board having oversight over that practitioner in the  
7 previous five years at the time of the act or omission causing  
8 injury; or

9 (c) The damage or injury is caused by such practitioner  
10 (i) during the operation of any motor vehicle, airplane, or boat  
11 or (ii) while impaired by alcohol or any controlled substance  
12 enumerated in section 28-405.

13 Sec. 1116. Section 25-21,247, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 25-21,247 (1) For purposes of this section, health care  
16 payor shall include, but not be limited to:

17 (a) An insurer;

18 (b) A health maintenance organization;

19 (c) Medicare or medicaid;

20 (d) A legal entity which is self-insured and provides  
21 health care benefits for its employees; or

22 (e) A person responsible for administering the payment of  
23 health care expenses for another person or entity.

24 (2) Any health care payor or employee thereof who has  
25 reasonable cause to believe that there has been a violation of

1 section ~~71-147 or 71-148~~ 78 or 79 of this act or a fraudulent  
2 insurance act described in the Insurance Fraud Act or section  
3 28-631 may discuss or inquire of other health care payors about  
4 such violation or act. Any health care payor or employee so  
5 discussing or inquiring or responding to such an inquiry from  
6 another health care payor shall be immune from criminal penalty  
7 or from civil liability for slander, libel, defamation, or breach  
8 of the physician-patient privilege if the discussion, inquiry, or  
9 response is made in good faith without reckless disregard for the  
10 truth.

11 Sec. 1117. Section 27-504, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 27-504 (1) As used in this rule:

14 (a) A patient is a person who consults or is examined or  
15 interviewed by a physician for purposes of diagnosis or treatment  
16 of his or her physical, mental, or emotional condition;

17 (b) A physician is (i) a person authorized to practice  
18 medicine in any state or nation or who is reasonably believed by  
19 the patient so to be or (ii) a person licensed as a psychologist  
20 under the laws of any state or nation who devotes all or a part of  
21 his or her time to the practice of psychology;

22 (c) A client is a person who consults or is interviewed  
23 by a professional counselor for professional counseling as defined  
24 in section ~~71-1,310,~~ 736 of this act;

25 (d) A professional counselor is a person certified as a

1 professional counselor pursuant to ~~sections 71-1,310, 71-1,324 to~~  
2 ~~71-1,328, and 71-1,333,~~ section 749 of this act; and

3 (e) A communication is confidential if not intended to be  
4 disclosed to third persons other than those present to further the  
5 interest of (i) the patient in the consultation, examination, or  
6 interview, persons reasonably necessary for the transmission of the  
7 communication, or persons who are participating in the diagnosis  
8 and treatment under the direction of the physician, including  
9 members of the patient's family, or (ii) the client participating  
10 in professional counseling by a professional counselor.

11 (2) (a) A patient has a privilege to refuse to disclose  
12 and to prevent any other person from disclosing confidential  
13 communications made for the purposes of diagnosis or treatment of  
14 his or her physical, mental, or emotional condition among himself  
15 or herself, his or her physician, or persons who are participating  
16 in the diagnosis or treatment under the direction of the physician,  
17 including members of the patient's family.

18 (b) A client has a privilege to refuse to disclose  
19 and to prevent any other person from disclosing confidential  
20 communications made during counseling between himself or herself,  
21 his or her professional counselor, or persons who are participating  
22 in the counseling under the direction of the professional  
23 counselor, including members of the client's family.

24 (3) The privilege may be claimed by the patient or  
25 client, by his or her guardian or conservator, or by the personal

1 representative of a deceased patient or client. The person who was  
2 the physician or professional counselor may claim the privilege but  
3 only on behalf of the patient or client. His or her authority so to  
4 do is presumed in the absence of evidence to the contrary.

5 (4) (a) There is no privilege under this rule for  
6 communications relevant to an issue in proceedings to hospitalize  
7 the patient for physical, mental, or emotional illness if the  
8 physician, in the course of diagnosis or treatment, has determined  
9 that the patient is in need of hospitalization or if a professional  
10 counselor deems it necessary to refer a client to determine if  
11 there is need for hospitalization.

12 (b) If the judge orders an examination of the physical,  
13 mental, or emotional condition of the patient, communications made  
14 in the course thereof are not privileged under this rule with  
15 respect to the particular purpose for which the examination is  
16 ordered unless the judge orders otherwise.

17 (c) There is no privilege under this rule as to  
18 communications relevant to an issue of the physical, mental,  
19 or emotional condition of the patient in any proceeding in which  
20 he or she relies upon the condition as an element of his or her  
21 claim or defense or, after the patient's death, in any proceeding  
22 in which any party relies upon the condition as an element of his  
23 or her claim or defense.

24 (d) There is no privilege under this rule in any judicial  
25 proceedings under the Nebraska Juvenile Code regarding injuries

1 to children, incompetents, or disabled persons or in any criminal  
2 prosecution involving injury to any such person or the willful  
3 failure to report any such injuries.

4 (e) There is no privilege under this rule in any judicial  
5 proceeding regarding unlawfully obtaining or attempting to obtain  
6 (i) a controlled substance, (ii) a written or oral prescription for  
7 a controlled substance, or (iii) the administration of a controlled  
8 substance from a practitioner. For purposes of this subdivision,  
9 the definitions found in section 28-401 shall apply.

10 Sec. 1118. Section 28-328, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 28-328 (1) No partial-birth abortion shall be performed  
13 in this state, unless such procedure is necessary to save the life  
14 of the mother whose life is endangered by a physical disorder,  
15 physical illness, or physical injury, including a life-endangering  
16 physical condition caused by or arising from the pregnancy itself.

17 (2) The intentional and knowing performance of an  
18 unlawful partial-birth abortion in violation of subsection (1) of  
19 this section is a Class III felony.

20 (3) No woman upon whom an unlawful partial-birth abortion  
21 is performed shall be prosecuted under this section or for  
22 conspiracy to violate this section.

23 (4) The intentional and knowing performance of an  
24 unlawful partial-birth abortion shall result in the automatic  
25 suspension and revocation of an attending physician's license to



1 practice medicine in Nebraska by the Director of Regulation and  
2 Licensure pursuant to sections ~~71-147 to 71-161.20~~ 77 to 102 of  
3 this act.

4 (5) Upon the filing of criminal charges under this  
5 section by the Attorney General or a county attorney, the Attorney  
6 General shall also file a petition to suspend and revoke the  
7 attending physician's license to practice medicine pursuant to  
8 section ~~71-150. 86~~ of this act. A hearing on such administrative  
9 petition shall be set in accordance with section ~~71-153. 88~~  
10 of this act. At such hearing, the attending physician shall  
11 have the opportunity to present evidence that the physician's  
12 conduct was necessary to save the life of a mother whose life was  
13 endangered by a physical disorder, physical illness, or physical  
14 injury, including a life-endangering physical condition caused by  
15 or arising from the pregnancy itself. A defendant against whom  
16 criminal charges are brought under this section may bring a motion  
17 to delay the beginning of the trial until after the entry of  
18 an order by the Director of Regulation and Licensure pursuant to  
19 section ~~71-155. 96~~ of this act. The findings of the Director of  
20 Regulation and Licensure as to whether the attending physician's  
21 conduct was necessary to save the life of a mother whose life was  
22 endangered by a physical disorder, physical illness, or physical  
23 injury, including a life-endangering physical condition caused by  
24 or arising from the pregnancy itself, shall be admissible in the  
25 criminal proceedings brought pursuant to this section.

1           Sec. 1119. Section 28-401, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           28-401 As used in the Uniform Controlled Substances Act,  
4 unless the context otherwise requires:

5           (1) Administer shall mean to directly apply a controlled  
6 substance by injection, inhalation, ingestion, or any other means  
7 to the body of a patient or research subject;

8           (2) Agent shall mean an authorized person who acts on  
9 behalf of or at the direction of another person but shall not  
10 include a common or contract carrier, public warehouse keeper, or  
11 employee of a carrier or warehouse keeper;

12           (3) Administration shall mean the Drug Enforcement  
13 Administration, United States Department of Justice;

14           (4) Controlled substance shall mean a drug, biological,  
15 substance, or immediate precursor in Schedules I to V of section  
16 28-405. Controlled substance shall not include distilled spirits,  
17 wine, malt beverages, tobacco, or any nonnarcotic substance if such  
18 substance may, under the Federal Food, Drug, and Cosmetic Act, 21  
19 U.S.C. 301 et seq., as such act existed on January 1, 2003, and  
20 the law of this state, be lawfully sold over the counter without a  
21 prescription;

22           (5) Counterfeit substance shall mean a controlled  
23 substance which, or the container or labeling of which, without  
24 authorization, bears the trademark, trade name, or other  
25 identifying mark, imprint, number, or device, or any likeness

1 thereof, of a manufacturer, distributor, or dispenser other than  
2 the person or persons who in fact manufactured, distributed, or  
3 dispensed such substance and which thereby falsely purports or is  
4 represented to be the product of, or to have been distributed by,  
5 such other manufacturer, distributor, or dispenser;

6 (6) Department shall mean the Department of Health and  
7 Human Services Regulation and Licensure;

8 (7) Division of Drug Control shall mean the personnel of  
9 the Nebraska State Patrol who are assigned to enforce the Uniform  
10 Controlled Substances Act;

11 (8) Dispense shall mean to deliver a controlled substance  
12 to an ultimate user or a research subject pursuant to a medical  
13 order issued by a practitioner authorized to prescribe, including  
14 the packaging, labeling, or compounding necessary to prepare the  
15 controlled substance for such delivery;

16 (9) Distribute shall mean to deliver other than by  
17 administering or dispensing a controlled substance;

18 (10) Prescribe shall mean to issue a medical order;

19 (11) Drug shall mean (a) articles recognized in  
20 the official United States Pharmacopoeia, official Homeopathic  
21 Pharmacopoeia of the United States, official National Formulary,  
22 or any supplement to any of them, (b) substances intended for use  
23 in the diagnosis, cure, mitigation, treatment, or prevention of  
24 disease in human beings or animals, and (c) substances intended for  
25 use as a component of any article specified in subdivision (a) or

1 (b) of this subdivision, but shall not include devices or their  
2 components, parts, or accessories;

3 (12) Deliver or delivery shall mean the actual,  
4 constructive, or attempted transfer from one person to another  
5 of a controlled substance, whether or not there is an agency  
6 relationship;

7 (13) Marijuana shall mean all parts of the plant of  
8 the genus cannabis, whether growing or not, the seeds thereof,  
9 and every compound, manufacture, salt, derivative, mixture, or  
10 preparation of such plant or its seeds, but shall not include  
11 the mature stalks of such plant, hashish, tetrahydrocannabinols  
12 extracted or isolated from the plant, fiber produced from such  
13 stalks, oil or cake made from the seeds of such plant, any other  
14 compound, manufacture, salt, derivative, mixture, or preparation of  
15 such mature stalks, or the sterilized seed of such plant which is  
16 incapable of germination. When the weight of marijuana is referred  
17 to in the Uniform Controlled Substances Act, it shall mean its  
18 weight at or about the time it is seized or otherwise comes into  
19 the possession of law enforcement authorities, whether cured or  
20 uncured at that time;

21 (14) Manufacture shall mean the production, preparation,  
22 propagation, compounding, conversion, or processing of a controlled  
23 substance, either directly or indirectly, by extraction from  
24 substances of natural origin, independently by means of chemical  
25 synthesis, or by a combination of extraction and chemical

1 synthesis, and shall include any packaging or repackaging of the  
2 substance or labeling or relabeling of its container. Manufacture  
3 shall not include the preparation or compounding of a controlled  
4 substance by an individual for his or her own use, except for the  
5 preparation or compounding of components or ingredients used for or  
6 intended to be used for the manufacture of methamphetamine, or the  
7 preparation, compounding, conversion, packaging, or labeling of a  
8 controlled substance: (a) By a practitioner as an incident to his  
9 or her prescribing, administering, or dispensing of a controlled  
10 substance in the course of his or her professional practice; or  
11 (b) by a practitioner, or by his or her authorized agent under  
12 his or her supervision, for the purpose of, or as an incident to,  
13 research, teaching, or chemical analysis and not for sale;

14 (15) Narcotic drug shall mean any of the following,  
15 whether produced directly or indirectly by extraction from  
16 substances of vegetable origin, independently by means of chemical  
17 synthesis, or by a combination of extraction and chemical  
18 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,  
19 and opiates; (b) a compound, manufacture, salt, derivative, or  
20 preparation of opium, coca leaves, or opiates; or (c) a substance  
21 and any compound, manufacture, salt, derivative, or preparation  
22 thereof which is chemically equivalent to or identical with any  
23 of the substances referred to in subdivisions (a) and (b) of this  
24 subdivision, except that the words narcotic drug as used in the  
25 Uniform Controlled Substances Act shall not include decocainized

1 coca leaves or extracts of coca leaves, which extracts do not  
2 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

3 (16) Opiate shall mean any substance having an  
4 addiction-forming or addiction-sustaining liability similar to  
5 morphine or being capable of conversion into a drug having  
6 such addiction-forming or addiction-sustaining liability. Opiate  
7 shall not include the dextrorotatory isomer of 3-methoxy-n  
8 methylmorphinan and its salts. Opiate shall include its racemic and  
9 levorotatory forms;

10 (17) Opium poppy shall mean the plant of the species  
11 *Papaver somniferum* L., except the seeds thereof;

12 (18) Poppy straw shall mean all parts, except the seeds,  
13 of the opium poppy after mowing;

14 (19) Person shall mean any corporation, association,  
15 partnership, limited liability company, or one or more individuals;

16 (20) Practitioner shall mean a physician, a physician  
17 assistant, a dentist, a veterinarian, a pharmacist, a podiatrist,  
18 an optometrist, a certified nurse midwife, a certified registered  
19 nurse anesthetist, a nurse practitioner, a scientific investigator,  
20 a pharmacy, a hospital, or any other person licensed, registered,  
21 or otherwise permitted to distribute, dispense, prescribe, conduct  
22 research with respect to, or administer a controlled substance in  
23 the course of practice or research in this state, including an  
24 emergency medical service as defined in section ~~71-5175~~, 491 of  
25 this act;

1           (21) Production shall include the manufacture, planting,  
2 cultivation, or harvesting of a controlled substance;

3           (22) Immediate precursor shall mean a substance which is  
4 the principal compound commonly used or produced primarily for use  
5 and which is an immediate chemical intermediary used or likely  
6 to be used in the manufacture of a controlled substance, the  
7 control of which is necessary to prevent, curtail, or limit such  
8 manufacture;

9           (23) State shall mean the State of Nebraska;

10          (24) Ultimate user shall mean a person who lawfully  
11 possesses a controlled substance for his or her own use, for the  
12 use of a member of his or her household, or for administration  
13 to an animal owned by him or her or by a member of his or her  
14 household;

15          (25) Hospital shall have the same meaning as in section  
16 71-419;

17          (26) Cooperating individual shall mean any person, other  
18 than a commissioned law enforcement officer, who acts on behalf of,  
19 at the request of, or as agent for a law enforcement agency for the  
20 purpose of gathering or obtaining evidence of offenses punishable  
21 under the Uniform Controlled Substances Act;

22          (27) Hashish or concentrated cannabis shall mean: (a) The  
23 separated resin, whether crude or purified, obtained from a plant  
24 of the genus cannabis; or (b) any material, preparation, mixture,  
25 compound, or other substance which contains ten percent or more by

1 weight of tetrahydrocannabinols;

2 (28) Exceptionally hazardous drug shall mean (a)  
3 a narcotic drug, (b) thiophene analog of phencyclidine,  
4 (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f)  
5 pentobarbital, (g) amphetamine, or (h) methamphetamine;

6 (29) Imitation controlled substance shall mean a  
7 substance which is not a controlled substance but which, by way  
8 of express or implied representations and consideration of other  
9 relevant factors including those specified in section 28-445,  
10 would lead a reasonable person to believe the substance is a  
11 controlled substance. A placebo or registered investigational drug  
12 manufactured, distributed, possessed, or delivered in the ordinary  
13 course of practice or research by a health care professional shall  
14 not be deemed to be an imitation controlled substance;

15 (30)(a) Controlled substance analogue shall mean a  
16 substance (i) the chemical structure of which is substantially  
17 similar to the chemical structure of a Schedule I or Schedule  
18 II controlled substance as provided in section 28-405 or (ii)  
19 which has a stimulant, depressant, analgesic, or hallucinogenic  
20 effect on the central nervous system that is substantially similar  
21 to or greater than the stimulant, depressant, analgesic, or  
22 hallucinogenic effect on the central nervous system of a Schedule I  
23 or Schedule II controlled substance as provided in section 28-405.  
24 A controlled substance analogue shall, to the extent intended for  
25 human consumption, be treated as a controlled substance under



1 Schedule I of section 28-405 for purposes of the Uniform Controlled  
2 Substances Act; and

3 (b) Controlled substance analogue shall not include (i)  
4 a controlled substance, (ii) any substance generally recognized as  
5 safe and effective within the meaning of the Federal Food, Drug,  
6 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on  
7 January 1, 2003, (iii) any substance for which there is an approved  
8 new drug application, or (iv) with respect to a particular person,  
9 any substance if an exemption is in effect for investigational use  
10 for that person, under section 505 of the Federal Food, Drug, and  
11 Cosmetic Act, 21 U.S.C. 355, as such section existed on January  
12 1, 2003, to the extent conduct with respect to such substance is  
13 pursuant to such exemption;

14 (31) Anabolic steroid shall mean any drug or hormonal  
15 substance, chemically and pharmacologically related to testosterone  
16 (other than estrogens, progestins, and corticosteroids), that  
17 promotes muscle growth and includes any controlled substance in  
18 Schedule III(d) of section 28-405. Anabolic steroid shall not  
19 include any anabolic steroid which is expressly intended for  
20 administration through implants to cattle or other nonhuman species  
21 and has been approved by the Secretary of Health and Human Services  
22 for such administration, but if any person prescribes, dispenses,  
23 or distributes such a steroid for human use, such person shall  
24 be considered to have prescribed, dispensed, or distributed an  
25 anabolic steroid within the meaning of this subdivision;

1           (32) Chart order shall mean an order for a controlled  
2 substance issued by a practitioner for a patient who is in the  
3 hospital where the chart is stored or for a patient receiving  
4 detoxification treatment or maintenance treatment pursuant to  
5 section 28-412. Chart order shall not include a prescription;

6           (33) Medical order shall mean a prescription, a  
7 chart order, or an order for pharmaceutical care issued by a  
8 practitioner;

9           (34) Prescription shall mean an order for a controlled  
10 substance issued by a practitioner. Prescription shall not include  
11 a chart order;

12           (35) Registrant shall mean any person who has a  
13 controlled substances registration issued by the state or the  
14 administration;

15           (36) Reverse distributor shall mean a person whose  
16 primary function is to act as an agent for a pharmacy, wholesaler,  
17 manufacturer, or other entity by receiving, inventorying, and  
18 managing the disposition of outdated, expired, or otherwise  
19 nonsaleable controlled substances;

20           (37) Signature shall mean the name, word, or mark of  
21 a person written in his or her own hand with the intent to  
22 authenticate a writing or other form of communication or a digital  
23 signature which complies with section 86-611 or an electronic  
24 signature;

25           (38) Facsimile shall mean a copy generated by a

1 system that encodes a document or photograph into electrical  
2 signals, transmits those signals over telecommunications lines,  
3 and reconstructs the signals to create an exact duplicate of the  
4 original document at the receiving end;

5 (39) Electronic signature shall have the definition found  
6 in section 86-621; and

7 (40) Electronic transmission shall mean transmission  
8 of information in electronic form. Electronic transmission may  
9 include computer-to-computer transmission or computer-to-facsimile  
10 transmission.

11 Sec. 1120. Section 28-401.01, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 28-401.01 Sections 28-401 to 28-456.01 and sections 1123  
14 to 1126 of this act shall be known and may be cited as the Uniform  
15 Controlled Substances Act.

16 Sec. 1121. Section 28-409, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 28-409 (1) A registration pursuant to section 28-408  
19 to prescribe, administer, manufacture, distribute, or dispense a  
20 controlled substance may be denied, suspended, revoked, or renewal  
21 refused by the department upon a finding that the applicant or  
22 registrant:

23 (a) Has falsified any application filed pursuant to the  
24 Uniform Controlled Substances Act or required by the act;

25 (b) Has been convicted of a felony subsequent to being

1 granted a registration pursuant to section 28-408 under any law  
2 of the United States or of any state or has been convicted of  
3 a violation relating to any substance defined in the act as a  
4 controlled substance subsequent to being granted a registration  
5 pursuant to section 28-408 under any law of the United States or of  
6 any state;

7 (c) Has had his or her federal registration suspended or  
8 revoked by competent federal authority and is no longer authorized  
9 by federal law to engage in the prescribing, manufacturing,  
10 distribution, or dispensing of controlled substances;

11 (d) Is guilty of any of the acts or offenses listed in  
12 section ~~71-147~~ 78 of this act for which disciplinary measures may  
13 be taken against his or her license, certificate, or registration  
14 to practice and which have a rational connection with his or  
15 her fitness to prescribe, administer, or dispense a controlled  
16 substance. The department may automatically revoke or suspend the  
17 registration of a practitioner who has had his or her license,  
18 certificate, or registration to practice revoked or suspended and  
19 is no longer authorized to prescribe, administer, or dispense  
20 under the laws of this state or who has had his or her license,  
21 certificate, or registration to practice limited or restricted  
22 and is no longer authorized to prescribe, administer, or dispense  
23 controlled substances under the laws of this state;

24 (e) Is habitually intoxicated or is dependent upon or  
25 actively addicted to alcohol or any controlled substance or

1 narcotic drug; or

2 (f) Has violated the Uniform Controlled Substances Act or  
3 any rules or regulations adopted and promulgated pursuant to the  
4 act.

5 (2) The department may limit revocation or suspension of  
6 a registration to the particular controlled substance with respect  
7 to which grounds for revocation or suspension exist.

8 (3) A person whose registration or renewal has been  
9 denied, revoked, or suspended shall be afforded an opportunity  
10 for a hearing in accordance with the Administrative Procedure  
11 Act. Such proceedings shall be independent of, and not in  
12 lieu of, criminal prosecutions or other proceedings under the  
13 Uniform Controlled Substances Act or any law of the state, except  
14 that such proceedings may be consolidated with proceedings under  
15 ~~section 71-155 or sections 71-161.12 to 71-161.18.~~ the Uniform  
16 Credentialing Act. Proceedings to refuse renewal of registration  
17 shall not abate the existing registration which shall remain in  
18 effect pending the outcome of the administrative hearing, except in  
19 cases when the department finds that there is an imminent danger to  
20 the public health or safety.

21 (4) The department may suspend any registration  
22 simultaneously with the institution of proceedings under this  
23 section or when renewal of registration is refused in cases when  
24 the department finds that there is an imminent danger to the  
25 public health or safety. Such suspension shall continue in effect

1 until the conclusion of such proceedings, including judicial review  
2 thereof, unless sooner withdrawn by the department or dissolved by  
3 a court of competent jurisdiction.

4 (5) In the event the department suspends or revokes  
5 a registration granted under section 28-408, all controlled  
6 substances owned or possessed by the registrant pursuant to such  
7 registration at the time of suspension or the effective date of  
8 the revocation order, as the case may be, may in the discretion of  
9 the department be placed under seal. No disposition may be made  
10 of substances under seal until the time for taking an appeal has  
11 elapsed or until all appeals have been concluded unless a court,  
12 upon application therefor, orders the sale of perishable substances  
13 and the deposit of the proceeds of the sale with the court. Upon a  
14 revocation order becoming final, all such controlled substances may  
15 be forfeited to the state.

16 (6) The administration shall be promptly notified of all  
17 orders limiting, suspending, or revoking registration.

18 Sec. 1122. Section 28-414, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 28-414 (1)(a) Except as otherwise provided in this  
21 subsection or section 28-412 or when administered directly by  
22 a practitioner to an ultimate user, a controlled substance listed  
23 in Schedule II of section 28-405 shall not be dispensed without  
24 the written prescription bearing the signature of a practitioner  
25 authorized to prescribe. No medical order for a controlled

1 substance listed in Schedule II of section 28-405 shall be filled  
2 more than six months from the date of issuance. A prescription  
3 for a controlled substance listed in Schedule II of section 28-405  
4 shall not be refilled.

5 (b) In emergency situations as defined by rule and  
6 regulation of the department, a controlled substance listed in  
7 Schedule II of section 28-405 may be dispensed pursuant to a  
8 facsimile of a written, signed prescription bearing the word  
9 "emergency" or pursuant to an oral prescription reduced to writing  
10 in accordance with subdivision (3)(b) of this section, except for  
11 the prescribing practitioner's signature, and bearing the word  
12 "emergency".

13 (c) In nonemergency situations:

14 (i) A controlled substance listed in Schedule II of  
15 section 28-405 may be dispensed pursuant to a facsimile of  
16 a written, signed prescription if the original written, signed  
17 prescription is presented to the pharmacist for review before  
18 the controlled substance is dispensed, except as provided in  
19 subdivision (1)(c)(ii) or (1)(c)(iii) of this section;

20 (ii) A narcotic drug listed in Schedule II of section  
21 28-405 may be dispensed pursuant to a facsimile of a written,  
22 signed prescription (A) to be compounded for direct parenteral  
23 administration to a patient for the purpose of home infusion  
24 therapy or (B) for administration to a patient in a hospice  
25 licensed under the Health Care Facility Licensure Act or certified

1 under Title XVIII of the federal Social Security Act, as such title  
2 existed on May 1, 2001, and bearing the words "hospice patient";

3 (iii) A controlled substance listed in Schedule II of  
4 section 28-405 may be dispensed pursuant to a facsimile of a  
5 written, signed prescription for administration to a resident of a  
6 long-term care facility; and

7 (iv) For purposes of subdivisions (1)(c)(ii) and  
8 (1)(c)(iii) of this section, a facsimile of a written, signed  
9 prescription shall serve as the original written prescription and  
10 shall be maintained in accordance with subdivision (3)(a) of this  
11 section.

12 (d)(i) A prescription for a controlled substance listed  
13 in Schedule II of section 28-405 may be partially filled if the  
14 pharmacist does not supply the full quantity prescribed and he  
15 or she makes a notation of the quantity supplied on the face of  
16 the prescription. The remaining portion of the prescription may  
17 be filled within seventy-two hours of the first partial filling.  
18 The pharmacist shall notify the prescribing practitioner if the  
19 remaining portion of the prescription is not or cannot be filled  
20 within such period. No further quantity may be supplied after such  
21 period without a new written, signed prescription.

22 (ii) A prescription for a controlled substance listed in  
23 Schedule II of section 28-405 written for a patient in a long-term  
24 care facility or for a patient with a medical diagnosis documenting  
25 a terminal illness may be partially filled. Such prescription



1 shall bear the words "terminally ill" or "long-term care facility  
2 patient" on its face. If there is any question whether a patient  
3 may be classified as having a terminal illness, the pharmacist  
4 shall contact the prescribing practitioner prior to partially  
5 filling the prescription. Both the pharmacist and the prescribing  
6 practitioner have a corresponding responsibility to assure that the  
7 controlled substance is for a terminally ill patient. For each  
8 partial filling, the dispensing pharmacist shall record on the back  
9 of the prescription or on another appropriate record, uniformly  
10 maintained and readily retrievable, the date of the partial  
11 filling, quantity dispensed, remaining quantity authorized to be  
12 dispensed, and the identification of the dispensing pharmacist. The  
13 total quantity of controlled substances listed in Schedule II which  
14 is dispensed in all partial fillings shall not exceed the total  
15 quantity prescribed. A prescription for a Schedule II controlled  
16 substance for a patient in a long-term care facility or a patient  
17 with a medical diagnosis documenting a terminal illness is valid  
18 for sixty days from the date of issuance or until discontinuance of  
19 the prescription, whichever occurs first.

20 (2)(a) Except as otherwise provided in this subsection  
21 or when administered directly by a practitioner to an ultimate  
22 user, a controlled substance listed in Schedule III, IV, or V of  
23 section 28-405 shall not be dispensed without a written or oral  
24 medical order. Such medical order is valid for six months after  
25 the date of issuance. Authorization from a practitioner authorized

1 to prescribe is required to refill a prescription for a controlled  
2 substance listed in Schedule III, IV, or V of section 28-405.  
3 Such prescriptions shall not be refilled more than five times  
4 within six months after the date of issuance. Original prescription  
5 information for any controlled substance listed in Schedule III,  
6 IV, or V of section 28-405 may be transferred between pharmacies  
7 for purposes of refill dispensing pursuant to section ~~71-1,146.02-~~  
8 967 of this act.

9 (b) A controlled substance listed in Schedule III, IV, or  
10 V of section 28-405 may be dispensed pursuant to a facsimile of  
11 a written, signed prescription. The facsimile of a written, signed  
12 prescription shall serve as the original written prescription for  
13 purposes of this subsection and shall be maintained in accordance  
14 with the provisions of subdivision (3)(c) of this section.

15 (c) A prescription for a controlled substance listed in  
16 Schedule III, IV, or V of section 28-405 may be partially filled  
17 if (i) each partial filling is recorded in the same manner as  
18 a refilling, (ii) the total quantity dispensed in all partial  
19 fillings does not exceed the total quantity prescribed, and (iii)  
20 each partial filling is dispensed within six months after the  
21 prescription was issued.

22 (3)(a) Prescriptions for all controlled substances listed  
23 in Schedule II of section 28-405 shall be kept in a separate  
24 file by the dispensing practitioner and shall be maintained for  
25 a minimum of five years. The practitioner shall make all such

1 files readily available to the department and law enforcement for  
2 inspection without a search warrant.

3 (b) All prescriptions for controlled substances listed  
4 in Schedule II of section 28-405 shall contain the name and  
5 address of the patient, the name and address of the prescribing  
6 practitioner, the Drug Enforcement Administration number of  
7 the prescribing practitioner, the date of issuance, and the  
8 prescribing practitioner's signature. The practitioner filling such  
9 prescription shall write the date of filling and his or her own  
10 signature on the face of the prescription. If the prescription is  
11 for an animal, it shall also state the name and address of the  
12 owner of the animal and the species of the animal.

13 (c) Prescriptions for all controlled substances listed in  
14 Schedule III, IV, or V of section 28-405 shall be filed separately  
15 from other prescriptions in a single file by the dispensing  
16 practitioner and shall be maintained for a minimum of five years.  
17 The practitioner shall make all such files readily available to  
18 the department and law enforcement for inspection without a search  
19 warrant.

20 (d) All prescriptions for controlled substances listed in  
21 Schedule III, IV, or V of section 28-405 shall contain the name  
22 and address of the patient, the name and address of the prescribing  
23 practitioner, the Drug Enforcement Administration number of the  
24 prescribing practitioner, the date of issuance, and for written  
25 prescriptions, the prescribing practitioner's signature. If the

1 prescription is for an animal, it shall also state the owner's name  
2 and address and species of the animal.

3 (e) A registrant who is the owner of a controlled  
4 substance may transfer:

5 (i) Any controlled substance listed in Schedule I or II  
6 of section 28-405 to another registrant as provided by law or by  
7 rule and regulation of the department; and

8 (ii) Any controlled substance listed in Schedule III, IV,  
9 or V of section 28-405 to another registrant if such owner complies  
10 with subsection (4) of section 28-411.

11 (f)(i) The owner of any stock of controlled substances  
12 may cause such controlled substances to be destroyed pursuant  
13 to this subdivision when the need for such substances ceases.  
14 Complete records of controlled substances destruction pursuant to  
15 this subdivision shall be maintained by the registrant for five  
16 years from the date of destruction.

17 (ii) When the owner is a registrant:

18 (A) Controlled substances listed in Schedule II, III,  
19 IV, or V of section 28-405 may be destroyed by a pharmacy  
20 inspector, by a reverse distributor, or by the federal Drug  
21 Enforcement Administration. Upon destruction, any forms required by  
22 the administration to document such destruction shall be completed;

23 (B) Liquid controlled substances in opened containers  
24 which originally contained fifty milliliters or less or compounded  
25 liquid controlled substances within the facility where they were

1 compounded may be destroyed if witnessed by two members of the  
2 healing arts and recorded in accordance with subsection (4) of  
3 section 28-411; or

4 (C) Solid controlled substances in opened unit-dose  
5 containers or which have been adulterated within a hospital where  
6 they were to be administered to patients at such hospital may  
7 be destroyed if witnessed by two members of the healing arts and  
8 recorded in accordance with subsection (4) of section 28-411.

9 (iii) When the owner is a patient, such owner may  
10 transfer the controlled substances to a pharmacy for immediate  
11 destruction by two responsible parties acting on behalf of the  
12 pharmacy, one of whom must be a member of the healing arts.

13 (iv) When the owner is a resident of a long-term care  
14 facility or hospital, the long-term care facility or hospital shall  
15 assure that controlled substances are destroyed as follows:

16 (A) If the controlled substance is listed in Schedule II  
17 or III of section 28-405, the destruction shall be witnessed by an  
18 employee pharmacist or a consultant pharmacist and a member of the  
19 healing arts; or

20 (B) If the controlled substance is listed in Schedule  
21 IV or V of section 28-405, the destruction shall be witnessed  
22 by an employee pharmacist or a consultant pharmacist and another  
23 responsible adult.

24 (g) Before dispensing any controlled substance listed  
25 in Schedule II, III, IV, or V of section 28-405, the dispensing

1 practitioner shall affix a label to the container in which the  
2 controlled substance is dispensed. Such label shall bear the name  
3 and address of the pharmacy or dispensing practitioner, the name  
4 of the patient, the date of filling, the consecutive number of  
5 the prescription under which it is recorded in the practitioner's  
6 prescription files, the name of the prescribing practitioner, and  
7 the directions for use of the controlled substance. Unless the  
8 prescribing practitioner writes "do not label" or words of similar  
9 import on the original written prescription or so designates in  
10 an oral prescription, such label shall also bear the name of the  
11 controlled substance.

12 (4) For purposes of this section, long-term care facility  
13 has the same meaning as long-term care hospital in section  
14 71-422 and includes an intermediate care facility for the mentally  
15 retarded as defined in section 71-421.

16 Sec. 1123. Every licensee subject to the Uniform  
17 Controlled Substances Act shall be subject to and comply with  
18 sections 124 to 126 of this act relating to reporting and  
19 investigations.

20 Sec. 1124. (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 Uniform Controlled Substances Act shall report to  
24 the department, on a form and in the manner specified by the  
25 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. 1125. (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 Uniform Controlled Substances Act governing the  
23 profession of the person being reported whether or not such person  
24 is licensed shall report the facts of such violation as known to  
25 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. 1126. The clerk of any county or district court  
9 in this state shall report to the department the conviction of  
10 any person licensed by the department under the Uniform Controlled  
11 Substances Act of any felony or of any misdemeanor involving  
12 the use, sale, distribution, administration, or dispensing of a  
13 controlled substance, alcohol or chemical impairment, or substance  
14 abuse and shall also report a judgment against any such licensee  
15 arising out of a claim of professional liability. The Attorney  
16 General or city or county prosecutor prosecuting any such criminal  
17 action and plaintiff in any such civil action shall provide the  
18 court with information concerning the license of the defendant or  
19 party. Notice to the department shall be filed within thirty days  
20 after the date of conviction or judgment in a manner agreed to by  
21 the director and the State Court Administrator.

22           Sec. 1127. Section 28-1013, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           28-1013 Sections 28-1008 to 28-1017 shall not apply to:

25           (1) Care or treatment of an animal by a veterinarian

1 licensed under the ~~Nebraska~~ Veterinary Medicine and Surgery  
2 Practice Act;

3 (2) Commonly accepted care or treatment of a police  
4 animal by a law enforcement officer in the normal course of his or  
5 her duties;

6 (3) Research activity carried on by any research facility  
7 currently meeting the standards of the federal Animal Welfare Act,  
8 7 U.S.C. 2131 et seq., as such act existed on January 1, 2003;

9 (4) Commonly accepted practices of hunting, fishing, or  
10 trapping;

11 (5) Commonly accepted practices occurring in conjunction  
12 with rodeos, animal racing, or pulling contests;

13 (6) Humane killing of an animal by the owner or by his or  
14 her agent or a veterinarian upon the owner's request;

15 (7) Commonly accepted practices of animal husbandry with  
16 respect to farm animals, including their transport from one  
17 location to another and nonnegligent actions taken by personnel  
18 or agents of the Nebraska Department of Agriculture or the United  
19 States Department of Agriculture in the performance of duties  
20 prescribed by law;

21 (8) Use of reasonable force against an animal, other than  
22 a police animal, which is working, including killing, capture, or  
23 restraint, if the animal is outside the owned or rented property  
24 of its owner or custodian and is injuring or posing an immediate  
25 threat to any person or other animal;

1 (9) Killing of house or garden pests;

2 (10) Commonly followed practices occurring in conjunction  
3 with the slaughter of animals for food or byproducts; and

4 (11) Commonly accepted animal training practices.

5 Sec. 1128. Section 28-1301, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 28-1301 (1) The definitions found in section 12-1204  
8 shall apply to this section.

9 (2) Except as provided in subsection (3) of this section,  
10 a person commits the offense of removing, abandoning, or concealing  
11 human skeletal remains or burial goods if he or she:

12 (a) Knowingly digs up, disinters, removes, or carries  
13 away from its place of deposit or burial any such remains or goods,  
14 attempts to do the same, or aids, incites, assists, encourages, or  
15 procures the same to be done;

16 (b) Knowingly throws away or abandons any such remains or  
17 goods in any place other than a regular place for burial and under  
18 a proper death certificate issued under section ~~71-182~~ 252 of  
19 this act or section 71-605; or

20 (c) Receives, conceals, purchases, sells, transports,  
21 trades, or disposes of any such remains or goods if the person  
22 knows or has reason to know that such remains or goods have been  
23 dug up, disinterred, or removed from their place of deposit or  
24 burial or have not been reported in a proper death certificate  
25 issued under section ~~71-182~~ 252 of this act or section 71-605,

1 attempts to do the same, or aids, incites, assists, encourages, or  
2 procures the same to be done.

3 (3) This section shall not apply to: (a) A body  
4 authorized to be surrendered for purposes of dissection as  
5 provided by law; (b) the body of any person directed to be  
6 delivered by competent authority for purposes of dissection; (c)  
7 the officers of any lawfully constituted cemetery acting under  
8 the direction of the board of trustees in removing any human  
9 skeletal remains or burial goods from one place of burial in the  
10 cemetery to another place in the same cemetery when disinterment  
11 and reinterment permits are secured and return made pursuant to  
12 section 71-605; (d) any person removing the human skeletal remains  
13 or burial goods of a relative or intimate friend from one place  
14 of burial in any lawfully constituted cemetery to another when  
15 consent for such removal has been obtained from the lawfully  
16 constituted authority thereof and permits for disinterment and  
17 reinterment secured and return made pursuant to section 71-605;  
18 (e) any professional archaeologist engaged in an otherwise lawful  
19 and scholarly excavation of a nonburial site who unintentionally  
20 encounters human skeletal remains or associated burial goods if the  
21 archaeologist complies with the notification requirements of the  
22 Unmarked Human Burial Sites and Skeletal Remains Protection Act; or  
23 (f) any archaeological excavation by the Nebraska State Historical  
24 Society or its designee in the course of execution of the duties  
25 of the society if any human skeletal remains or associated burial

1 goods discovered during such excavation are disposed of pursuant to  
2 section 12-1208.

3 (4) Violation of this section shall be a Class IV felony.

4 Sec. 1129. Section 29-2261, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 29-2261 (1) Unless it is impractical to do so, when an  
7 offender has been convicted of a felony other than murder in the  
8 first degree, the court shall not impose sentence without first  
9 ordering a presentence investigation of the offender and according  
10 due consideration to a written report of such investigation. When  
11 an offender has been convicted of murder in the first degree and  
12 (a) a jury renders a verdict finding the existence of one or more  
13 aggravating circumstances as provided in section 29-2520 or (b) (i)  
14 the information contains a notice of aggravation as provided in  
15 section 29-1603 and (ii) the offender waives his or her right to  
16 a jury determination of the alleged aggravating circumstances, the  
17 court shall not commence the sentencing determination proceeding as  
18 provided in section 29-2521 without first ordering a presentence  
19 investigation of the offender and according due consideration to a  
20 written report of such investigation.

21 (2) A court may order a presentence investigation in any  
22 case, except in cases in which an offender has been convicted  
23 of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V  
24 misdemeanor, a traffic infraction, or any corresponding city or  
25 village ordinance.

1           (3) The presentence investigation and report shall  
2 include, when available, an analysis of the circumstances attending  
3 the commission of the crime, the offender's history of delinquency  
4 or criminality, physical and mental condition, family situation and  
5 background, economic status, education, occupation, and personal  
6 habits, and any other matters that the probation officer deems  
7 relevant or the court directs to be included. All local and state  
8 police agencies and Department of Correctional Services adult  
9 correctional facilities shall furnish to the probation officer  
10 copies of such criminal records, in any such case referred to  
11 the probation officer by the court of proper jurisdiction, as the  
12 probation officer shall require without cost to the court or the  
13 probation officer.

14           Such investigation shall also include:

15           (a) Any written statements submitted to the county  
16 attorney by a victim; and

17           (b) Any written statements submitted to the probation  
18 officer by a victim.

19           (4) If there are no written statements submitted to the  
20 probation officer, he or she shall certify to the court that:

21           (a) He or she has attempted to contact the victim; and

22           (b) If he or she has contacted the victim, such officer  
23 offered to accept the written statements of the victim or to reduce  
24 such victim's oral statements to writing.

25           For purposes of subsections (3) and (4) of this section,

1 the term victim shall be as defined in section 29-119.

2 (5) Before imposing sentence, the court may order the  
3 offender to submit to psychiatric observation and examination for  
4 a period of not exceeding sixty days or such longer period as the  
5 court determines to be necessary for that purpose. The offender  
6 may be remanded for this purpose to any available clinic or mental  
7 hospital, or the court may appoint a qualified psychiatrist to make  
8 the examination. The report of the examination shall be submitted  
9 to the court.

10 (6) Any presentence report or psychiatric examination  
11 shall be privileged and shall not be disclosed directly or  
12 indirectly to anyone other than a judge, probation officers  
13 to whom an offender's file is duly transferred, the probation  
14 administrator or his or her designee, or others entitled by law  
15 to receive such information, including personnel and mental health  
16 professionals for the Nebraska State Patrol specifically assigned  
17 to sex offender registration and community notification for the  
18 sole purpose of using such report or examination for assessing  
19 risk and for community notification of registered sex offenders.  
20 For purposes of this subsection, mental health professional means  
21 (a) a practicing physician licensed to practice medicine in this  
22 state under the ~~provisions of section 71-102,~~ Medicine and Surgery  
23 Practice Act, (b) a practicing psychologist licensed to engage in  
24 the practice of psychology in this state as provided in section  
25 ~~71-1,206-14,~~ 1045 of this act, or (c) a practicing mental health

1 professional licensed or certified in this state as provided in  
2 ~~section 71-1,333.~~ the Mental Health Practice Act. The court may  
3 permit inspection of the report or examination of parts thereof  
4 by the offender or his or her attorney, or other person having  
5 a proper interest therein, whenever the court finds it is in the  
6 best interest of a particular offender. The court may allow fair  
7 opportunity for an offender to provide additional information for  
8 the court's consideration.

9 (7) If an offender is sentenced to imprisonment, a copy  
10 of the report of any presentence investigation or psychiatric  
11 examination shall be transmitted immediately to the Department of  
12 Correctional Services. Upon request, the Board of Parole or the  
13 Office of Parole Administration may receive a copy of the report  
14 from the department.

15 (8) Notwithstanding subsection (6) of this section, the  
16 Nebraska Commission on Law Enforcement and Criminal Justice under  
17 the direction and supervision of the Chief Justice of the Supreme  
18 Court shall have access to presentence investigations and reports  
19 for the sole purpose of carrying out the study required under  
20 subdivision (7) of section 81-1425. The commission shall treat such  
21 information as confidential, and nothing identifying any individual  
22 shall be released by the commission.

23 (9) Notwithstanding subsection (6) of this section, the  
24 Supreme Court or an agent of the Supreme Court acting under the  
25 direction and supervision of the Chief Justice shall have access to



1 psychiatric examinations and presentence investigations and reports  
2 for research purposes. The Supreme Court and its agent shall  
3 treat such information as confidential and nothing identifying any  
4 individual shall be released.

5           Sec. 1130. Section 29-4013, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           29-4013 (1) The Nebraska State Patrol shall adopt and  
8 promulgate rules and regulations to carry out the registration  
9 provisions of the Sex Offender Registration Act.

10           (2)(a) The Nebraska State Patrol shall adopt and  
11 promulgate rules and regulations for the release of information  
12 pursuant to section 29-4009.

13           (b) The rules and regulations adopted by the Nebraska  
14 State Patrol shall identify and incorporate factors relevant to the  
15 sex offender's risk of recidivism. Factors relevant to the risk of  
16 recidivism include, but are not limited to:

17           (i) Conditions of release that minimize the risk of  
18 recidivism, including probation, parole, counseling, therapy, or  
19 treatment;

20           (ii) Physical conditions that minimize the risk of  
21 recidivism, including advanced age or debilitating illness; and

22           (iii) Any criminal history of the sex offender indicative  
23 of a high risk of recidivism, including:

24           (A) Whether the conduct of the sex offender was found to  
25 be characterized by repetitive and compulsive behavior;

1           (B) Whether the sex offender committed the sexual offense  
2 against a child;

3           (C) Whether the sexual offense involved the use of a  
4 weapon, violence, or infliction of serious bodily injury;

5           (D) The number, date, and nature of prior offenses;

6           (E) Whether psychological or psychiatric profiles  
7 indicate a risk of recidivism;

8           (F) The sex offender's response to treatment;

9           (G) Any recent threats by the sex offender against a  
10 person or expressions of intent to commit additional crimes; and

11           (H) Behavior of the sex offender while confined.

12           (c) The procedures for release of information established  
13 by the Nebraska State Patrol shall provide for three levels of  
14 notification by the law enforcement agency in whose jurisdiction  
15 the sex offender is to be released depending on the risk of  
16 recidivism by the sex offender as follows:

17           (i) If the risk of recidivism is low, other law  
18 enforcement agencies shall be notified;

19           (ii) If the risk of recidivism is moderate, in addition  
20 to the notice required by subdivision (i) of this subdivision,  
21 schools, day care centers, health care facilities providing  
22 services to children or vulnerable adults, and religious and youth  
23 organizations shall be notified; and

24           (iii) If the risk of recidivism is high, in addition  
25 to the notice required by subdivisions (i) and (ii) of this

1 subdivision, the public shall be notified through means designed  
2 to reach members of the public, which are limited to direct  
3 contact, news releases, a method utilizing a telephone system, or  
4 the Internet. The Nebraska State Patrol shall provide notice of  
5 sex offenders with a high risk of recidivism to at least one  
6 legal newspaper published in and of general circulation in the  
7 county where the offender is registered or, if none is published  
8 in the county, in a legal newspaper of general circulation in such  
9 county. If any means of notification proposes a fee for usage, then  
10 nonprofit organizations holding a certificate of exemption under  
11 section 501(c) of the Internal Revenue Code shall not be charged.

12 (d) The Nebraska State Patrol shall establish procedures  
13 for the evaluation of the risk of recidivism and implementation of  
14 community notification that promote the uniform application of the  
15 notification rules and regulations required by this section.

16 (e) The Nebraska State Patrol or a designee shall assign  
17 a notification level, based upon the risk of recidivism, to all  
18 persons required to register under the act.

19 (f) Personnel and mental health professionals for the  
20 sex offender registration and community notification division of  
21 the Nebraska State Patrol shall have access to all documents that  
22 are generated by any governmental agency that may have bearing on  
23 sex offender risk assessment and community notification pursuant  
24 to this section. This may include, but is not limited to, law  
25 enforcement reports, presentence reports, criminal histories, or

1 birth certificates. The division shall not be charged for access  
 2 to documents under this subdivision. Access to such documents  
 3 will ensure that a fair risk assessment is completed using the  
 4 totality of all information available. For purposes of this  
 5 subdivision, mental health professional means (i) a practicing  
 6 physician licensed to practice medicine in this state under  
 7 the provisions of section 71-102, Medicine and Surgery Practice  
 8 Act, (ii) a practicing psychologist licensed to engage in the  
 9 practice of psychology in this state as provided in section  
 10 ~~71-1,206.14,~~ 1045 of this act, or (iii) a practicing mental health  
 11 professional licensed or certified in this state as provided in  
 12 ~~section 71-1,333,~~ the Mental Health Practice Act.

13 (3) Nothing in subsection (2) of this section shall  
 14 be construed to prevent law enforcement officers from providing  
 15 community notification concerning any person who poses a danger  
 16 under circumstances that are not provided for in the ~~act.~~ Sex  
 17 Offender Registration Act.

18 Sec. 1131. Section 43-129, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 43-129 If at any time an individual licensed to practice  
 21 medicine and surgery pursuant to ~~sections 71-1,102 to 71-1,107.14~~  
 22 the Medicine and Surgery Practice Act or licensed to engage in  
 23 the practice of psychology pursuant to ~~sections 71-1,206.01 to~~  
 24 ~~71-1,206.35,~~ the Psychology Practice Act, through his or her  
 25 professional relationship with an adopted person, determines that

1 information contained on the original birth certificate of the  
2 adopted person may be necessary for the treatment of the health of  
3 the adopted person, whether physical or mental in nature, he or she  
4 may petition a court of competent jurisdiction for the release of  
5 the information contained on the original birth certificate, and  
6 the court may release the information on good cause shown.

7           Sec. 1132. Section 43-146.03, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           43-146.03 If at any time an individual licensed to  
10 practice medicine and surgery pursuant to ~~sections 71-1,102 to~~  
11 ~~71-1,107.14~~ the Medicine and Surgery Practice Act or licensed  
12 to engage in the practice of psychology pursuant to ~~sections~~  
13 ~~71-1,206.01 to 71-1,206.35,~~ the Psychology Practice Act, through  
14 his or her professional relationship with an adopted person,  
15 determines that information contained on the original birth  
16 certificate of the adopted person may be necessary for the  
17 treatment of the health of the adopted person, whether physical  
18 or mental in nature, he or she may petition a court of competent  
19 jurisdiction for the release of the information contained on  
20 the original birth certificate, and the court may release the  
21 information on good cause shown.

22           Sec. 1133. Section 43-1302, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           43-1302 (1)(a) Until January 1, 2006, the State Foster  
25 Care Review Board shall be comprised of nine members to be

1 appointed by the Governor, subject to confirmation by a majority  
2 of the members elected to the Legislature. At least one member  
3 shall be an attorney with legal expertise in child welfare. Two  
4 members shall be from each of the three congressional districts as  
5 they existed on January 1, 1982. In addition to the six members  
6 representative of the congressional districts, three members shall  
7 be appointed by the Governor from a group consisting of all the  
8 chairpersons of the local boards, and one such chairperson shall be  
9 appointed from each such congressional district. The appointment of  
10 a member of a local board to the state board shall not create a  
11 vacancy on the local board. Members other than those appointed from  
12 the group consisting of all the chairpersons of the local boards  
13 shall be appointed to three-year terms, and those members appointed  
14 from the group consisting of all the chairpersons of local boards  
15 shall be appointed to two-year terms. No person shall serve on the  
16 state board for more than six consecutive years. No person employed  
17 by a child-caring agency, a child-placing agency, or a court shall  
18 be appointed to the state board.

19 (b) On and after January 1, 2006, the State Foster Care  
20 Review Board shall be comprised of eleven members appointed by  
21 the Governor with the approval of a majority of the members  
22 elected to the Legislature, consisting of: Three members of  
23 local foster care review boards, one from each congressional  
24 district; one practitioner of pediatric medicine, licensed under  
25 the Uniform ~~Licensing Law~~; Credentialing Act; one practitioner of

1 child clinical psychology, licensed under the Uniform ~~Licensing~~  
2 ~~Law~~, Credentialing Act; one social worker certified under the  
3 Uniform ~~Licensing Law~~, Credentialing Act, with expertise in the  
4 area of child welfare; one attorney who is or has been a guardian  
5 ad litem; one representative of a statewide child advocacy group;  
6 one director of a child advocacy center; one director of a court  
7 appointed special advocate program; and one member of the public  
8 who has a background in business or finance.

9           The terms of members appointed pursuant to this  
10 subdivision shall be three years, except that of the initial  
11 members of the state board, one-third shall be appointed for terms  
12 of one year, one-third for terms of two years, and one-third for  
13 terms of three years, as determined by the Governor. No person  
14 appointed by the Governor to the state board shall serve more  
15 than two consecutive three-year terms. An appointee to a vacancy  
16 occurring from an unexpired term shall serve out the term of  
17 his or her predecessor. Members whose terms have expired shall  
18 continue to serve until their successors have been appointed and  
19 qualified. Members serving on the state board on December 31, 2005,  
20 shall continue in office until the members appointed under this  
21 subdivision take office. The members of the state board shall, to  
22 the extent possible, represent the three congressional districts  
23 equally.

24           (2) The state board shall select a chairperson,  
25 vice-chairperson, and such other officers as the state board deems

1 necessary. Members of the state board shall be reimbursed for their  
2 actual and necessary expenses as provided in sections 81-1174 to  
3 81-1177. The state board shall employ or contract for services from  
4 such persons as are necessary to aid it in carrying out its duties.

5 Sec. 1134. Section 44-526, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 44-526 For purposes of the Standardized Health Claim Form  
8 Act:

9 (1) Ambulatory surgical facility shall mean a facility,  
10 not a part of a hospital, which provides surgical treatment  
11 to patients not requiring hospitalization and which is licensed  
12 as a health clinic as defined by section 71-416 but shall not  
13 include the offices of private physicians or dentists whether for  
14 individual or group practice;

15 (2) Health care shall mean any treatment, procedure, or  
16 intervention to diagnose, cure, care for, or treat the effects of  
17 disease or injury or congenital or degenerative condition;

18 (3) Health care practitioner shall mean an individual  
19 or group of individuals in the form of a partnership, limited  
20 liability company, or corporation licensed, certified, or otherwise  
21 authorized or permitted by law to administer health care in the  
22 course of professional practice and shall include the health care  
23 professions and occupations which are regulated in ~~Chapter 71;~~ the  
24 Uniform Credentialing Act;

25 (4) Hospital shall mean a hospital as defined by section



1 71-419 except state hospitals administered by the Department of  
2 Health and Human Services;

3 (5) Institutional care providers shall mean all  
4 facilities licensed or otherwise authorized or permitted by law  
5 to administer health care in the ordinary course of business and  
6 shall include all health care facilities defined in the Health Care  
7 Facility Licensure Act;

8 (6) Issuer shall mean an insurance company, fraternal  
9 benefit society, health maintenance organization, third-party  
10 administrator, or other entity reimbursing the costs of health care  
11 expenses;

12 (7) Medicaid shall mean the medical assistance program  
13 pursuant to the Medical Assistance Act;

14 (8) Medicare shall mean Title XVIII of the federal Social  
15 Security Act, 42 U.S.C. 1395 et seq., as amended; and

16 (9) Uniform claim form shall mean the claim forms  
17 and electronic transfer procedures developed pursuant to section  
18 44-527.

19 Sec. 1135. Section 44-792, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 44-792 For purposes of sections 44-791 to 44-795:

22 (1) Health insurance plan means (a) any group  
23 sickness and accident insurance policy, group health maintenance  
24 organization contract, or group subscriber contract delivered,  
25 issued for delivery, or renewed in this state and (b) any

1 self-funded employee benefit plan to the extent not preempted by  
2 federal law. Health insurance plan includes any group policy,  
3 group contract, or group plan offered or administered by the state  
4 or its political subdivisions. Health insurance plan does not  
5 include group policies providing coverage for a specified disease,  
6 accident-only coverage, hospital indemnity coverage, disability  
7 income coverage, medicare supplement coverage, long-term care  
8 coverage, or other limited-benefit coverage. Health insurance plan  
9 does not include any policy, contract, or plan covering an employer  
10 group that covers fewer than fifteen employees;

11 (2) Mental health condition means any condition or  
12 disorder involving mental illness that falls under any of the  
13 diagnostic categories listed in the Mental Disorders Section of the  
14 International Classification of Disease;

15 (3) Mental health professional means (a) a practicing  
16 physician licensed to practice medicine in this state under  
17 the provisions of section 71-102, Medicine and Surgery Practice  
18 Act, (b) a practicing psychologist licensed to engage in the  
19 practice of psychology in this state as provided in section  
20 ~~71-1,206.14,~~ 1045 of this act, or (c) a practicing mental health  
21 professional licensed or certified in this state as provided in  
22 ~~section 71-1,333,~~ the Psychology Practice Act;

23 (4) Rate, term, or condition means lifetime limits,  
24 annual payment limits, and inpatient or outpatient service limits.  
25 Rate, term, or condition does not include any deductibles,

1 copayments, or coinsurance; and

2 (5)(a) Serious mental illness means, prior to January  
3 1, 2002, (i) schizophrenia, (ii) schizoaffective disorder, (iii)  
4 delusional disorder, (iv) bipolar affective disorder, (v) major  
5 depression, and (vi) obsessive compulsive disorder; and

6 (b) Serious mental illness means, on and after January  
7 1, 2002, any mental health condition that current medical science  
8 affirms is caused by a biological disorder of the brain and that  
9 substantially limits the life activities of the person with the  
10 serious mental illness. Serious mental illness includes, but is not  
11 limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii)  
12 delusional disorder, (iv) bipolar affective disorder, (v) major  
13 depression, and (vi) obsessive compulsive disorder.

14 Sec. 1136. Section 44-2804, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 44-2804 Physician shall mean a person with an unlimited  
17 license to practice medicine in this state pursuant to ~~sections~~  
18 ~~71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act  
19 or a person with a license to practice osteopathic medicine or  
20 osteopathic medicine and surgery in this state pursuant to sections  
21 ~~71-1,137 to 71-1,141.~~ 687 to 691 of this act.

22 Sec. 1137. Section 44-2902, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 44-2902 Any ten or more physicians licensed under  
25 ~~sections 71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice

1 Act may incorporate a mutual insurance association to insure member  
2 physicians, their professional corporations, partnerships, limited  
3 liability companies, agents, and employees against liability  
4 arising from rendering or failing to render professional services  
5 in the treatment or care of patients.

6           Sec. 1138. Section 44-32,170, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           44-32,170 Any health maintenance organization authorized  
9 under the Health Maintenance Organization Act shall not be deemed  
10 to be practicing medicine and shall be exempt from ~~sections~~  
11 ~~71-1,102 to 71-1,107.14~~ the Medicine and Surgery Practice Act  
12 relating to the practice of medicine.

13           Sec. 1139. Section 44-4110, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           44-4110 All providers of health services in Nebraska may  
16 develop preferred provider organizations and contract with insurers  
17 and participants in insurance arrangements if such providers have  
18 met all licensure and certification requirements necessary to  
19 practice a specific profession or to operate a specific health  
20 care facility pursuant to ~~Chapter 71,~~ the Health Care Facility  
21 Licensure Act and the Uniform Credentialing Act. An organization  
22 of preferred providers may limit itself to one or more specific  
23 professions or specialties within a profession, as defined in  
24 ~~Chapter 71,~~ the Uniform Credentialing Act, and may limit the number  
25 of participating providers to that required to adequately meet the

1 need for its particular program and the purpose of sections 44-4101  
2 to 44-4113 to furnish health services in a manner reasonably  
3 expected to contain or lower costs.

4 Sec. 1140. Section 46-602, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 46-602 (1) Each water well completed in this state on or  
7 after July 1, 2001, excluding test holes and dewatering wells to  
8 be used for less than ninety days, shall be registered with the  
9 Department of Natural Resources as provided in this section within  
10 sixty days after completion of construction of the water well.  
11 The licensed water well contractor as defined in section 46-1213  
12 constructing the water well, or the owner of the water well if the  
13 owner constructed the water well, shall file the registration on a  
14 form made available by the department and shall also file with the  
15 department the information from the well log required pursuant to  
16 section 46-1241. The department shall, by January 1, 2002, provide  
17 licensed water well contractors with the option of filing such  
18 registration forms electronically. No signature shall be required  
19 on forms filed electronically. The fee required by subsection (3)  
20 of section 46-1224 shall be the source of funds for any required  
21 fee to a contractor which provides the on-line services for such  
22 registration. Any discount in the amount paid the state by a credit  
23 card, charge card, or debit card company or a third-party merchant  
24 bank for such registration fees shall be deducted from the portion  
25 of the registration fee collected pursuant to section 46-1224.

1           (2)(a) If the newly constructed water well is a  
2 replacement water well, the registration form shall include  
3 (i) the registration number of the water well being replaced,  
4 if applicable, and (ii) the date the original water well was  
5 decommissioned or a certification that the water well will be  
6 decommissioned within one hundred eighty days or a certification  
7 that the original water well will be modified and equipped to  
8 pump fifty gallons per minute or less and will be used only for  
9 livestock, monitoring, observation, or any other nonconsumptive use  
10 or de minimus use approved by the applicable natural resources  
11 district.

12           (b) For purposes of this section, replacement water well  
13 means a water well which is constructed to provide water for  
14 the same purpose as the original water well and is operating in  
15 accordance with any applicable permit from the department and any  
16 applicable rules and regulations of the natural resources district  
17 and, if the purpose is for irrigation, the replacement water well  
18 delivers water to the same tract of land served by the original  
19 water well and (i) replaces an abandoned water well within three  
20 years after the last operation of the abandoned water well and  
21 the original water well is decommissioned either before or within  
22 one hundred eighty days after such construction, (ii) replaces a  
23 water well that has not been abandoned but will not be used after  
24 construction of the new water well and the original water well  
25 will be decommissioned within one hundred eighty days after such

1 construction, except that in the case of a municipal water well,  
2 the original municipal water well may be used after construction  
3 of the new water well but shall be decommissioned within one year  
4 after completion of the replacement water well, or (iii) will  
5 continue to be used but will be modified and equipped within one  
6 hundred eighty days after such construction of the replacement  
7 water well to pump fifty gallons per minute or less and will  
8 be used only for livestock, monitoring, observation, or any other  
9 nonconsumptive or de minimus use and approved by the applicable  
10 natural resources district.

11 (c) No water well shall be registered as a replacement  
12 water well until the Department of Natural Resources has received  
13 a properly completed notice of decommissioning for the water well  
14 being replaced on a form made available by the department, or  
15 properly completed notice, prepared in accordance with subsection  
16 (7) of this section, of the modification and equipping of the  
17 original water well to pump fifty gallons per minute or less  
18 for use only for livestock, monitoring, observation, or any other  
19 nonconsumptive or de minimus use approved by the applicable natural  
20 resources district. Such notices, as required, shall be completed  
21 by (i) the licensed water well contractor as defined in section  
22 46-1213 who decommissions the water well or modifies and equips  
23 the water well, (ii) the licensed pump installation contractor as  
24 defined in section 46-1209 who decommissions the water well or  
25 modifies and equips the water well, or (iii) the owner if the owner

1 decommissions a driven sandpoint well which is on land owned by him  
2 or her for farming, ranching, or agricultural purposes or as his  
3 or her place of abode. The Department of Health and Human Services  
4 Regulation and Licensure shall, by rule and regulation, determine  
5 which contractor or owner shall be responsible for such notice  
6 in situations in which more than one contractor or owner may be  
7 required to provide notice under this subsection.

8 (3) For a series of two or more water wells completed and  
9 pumped into a common carrier as part of a single site plan for  
10 irrigation purposes, a registration form and a detailed site plan  
11 shall be filed for each water well. The registration form shall  
12 include the registration numbers of other water wells included in  
13 the series if such water wells are already registered.

14 (4) A series of water wells completed for purposes  
15 of installation of a ground heat exchanger for a structure  
16 for utilizing the geothermal properties of the ground shall be  
17 considered as one water well. One registration form and a detailed  
18 site plan shall be filed for each such series.

19 (5) One registration form shall be required along with  
20 a detailed site plan which shows the location of each such water  
21 well in the site and a log from each such water well for water  
22 wells constructed as part of a single site plan for (a) monitoring  
23 ground water, obtaining hydrogeologic information, or extracting  
24 contaminants from the ground, (b) water wells constructed as part  
25 of remedial action approved by the Department of Environmental



1 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and  
2 (c) water well owners who have a permit issued pursuant to the  
3 Industrial Ground Water Regulatory Act and also have an underground  
4 injection control permit issued by the Department of Environmental  
5 Quality.

6 (6) The Department of Natural Resources shall be notified  
7 by the owner of any change in the ownership of a water well  
8 required to be registered under this section. Notification shall be  
9 in such form and include such evidence of ownership as the Director  
10 of Natural Resources by rule and regulation directs. The department  
11 shall use such notice to update the registration on file. The  
12 department shall not collect a fee for the filing of the notice.

13 (7) The licensed water well contractor or licensed  
14 pump installation contractor responsible therefor shall notify the  
15 department within sixty days on a form provided by the department  
16 of any pump installation or any modifications to the construction  
17 of the water well or pump, after the initial registration of  
18 the well. For a change of use resulting in modification and  
19 equipping of an original water well which is being replaced in  
20 accordance with subsection (2) of this section, the licensed water  
21 well contractor or licensed pump installation contractor shall  
22 notify the department within sixty days on a form provided by the  
23 department of the water well and pump modifications and equipping  
24 of the original water well. A water well owner shall notify the  
25 department within sixty days on a form provided by the department

1 of any other changes or any inaccuracies in recorded water well  
2 information, including, but not limited to, changes in use. The  
3 department shall not collect a fee for the filing of the notice.

4 (8) Whenever a water well becomes an illegal water well  
5 as defined in section 46-706, the owner of the water well shall  
6 either correct the deficiency that causes the well to be an illegal  
7 water well or shall cause the proper decommissioning of the water  
8 well in accordance with rules and regulations adopted pursuant to  
9 the Water Well Standards and Contractors' Licensing Practice Act.  
10 The licensed water well contractor who decommissions the water  
11 well, the licensed pump installation contractor who decommissions  
12 the water well, or the owner if the owner decommissions a driven  
13 sandpoint well which is on land owned by him or her for farming,  
14 ranching, or agricultural purposes or as his or her place of abode,  
15 shall provide a properly completed notice of abandonment to the  
16 Department of Natural Resources within sixty days. The Department  
17 of Health and Human Services Regulation and Licensure shall, by  
18 rule and regulation, determine which contractor or owner shall be  
19 responsible for such notice in situations in which more than one  
20 contractor or owner may be required to provide notice under this  
21 subsection. The Department of Natural Resources shall not collect a  
22 fee for the filing of the notice.

23 (9) Except for water wells which are used solely for  
24 domestic purposes and were constructed before September 9, 1993,  
25 and for test holes and dewatering wells used for less than ninety

1 days, each water well which was completed in this state before  
2 July 1, 2001, and which is not registered on that date shall be  
3 an illegal water well until it is registered with the Department  
4 of Natural Resources. Such registration shall be completed by a  
5 licensed water well contractor or by the current owner of the  
6 water well, shall be on forms provided by the department, and shall  
7 provide as much of the information required by subsections (1)  
8 through (5) of this section for registration of a new water well as  
9 is possible at the time of registration.

10 (10) Water wells which are or were used solely for  
11 injecting any fluid other than water into the underground water  
12 reservoir, which were constructed before July 16, 2004, and which  
13 have not been properly decommissioned on or before July 16, 2004,  
14 shall be registered on or before July 1, 2005.

15 Sec. 1141. Section 46-602.01, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 46-602.01 Prior to commencing construction of or  
18 installation of a pump in a water well in a management area or  
19 completing a notice of modification and change of use in lieu of  
20 decommissioning of a water well as part of a water well replacement  
21 procedure, a licensed water well contractor as defined in section  
22 46-1213 or a licensed pump installation contractor as defined in  
23 section 46-1209 shall take those steps necessary to satisfy himself  
24 or herself that the person for whom the well is to be constructed,  
25 the modification and change of use is to be completed, or the

1 pump installed has obtained a permit as required by the Nebraska  
2 Ground Water Management and Protection Act. The permit issued by  
3 the natural resources district as required by the act may (1)  
4 further define a replacement water well in accordance with the act  
5 so long as any further definition is not inconsistent with section  
6 46-602, (2) impose restrictions on consumptive use, or (3) impose  
7 additional restrictions based on historic consumptive use.

8 Any person who commences or causes construction of or  
9 installation of a pump in a water well for which the required  
10 permit has not been obtained or who knowingly furnishes false  
11 information regarding such permit shall be guilty of an offense  
12 punishable as provided in section 46-613.02.

13 Sec. 1142. Section 46-604, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 46-604 The Director of Natural Resources shall retain  
16 the registration form required by section 46-602 and shall make a  
17 copy available to the natural resources district within which the  
18 water well is located, to the owner of the water well, and to the  
19 licensed water well contractor as defined in section 46-1213.

20 Sec. 1143. Section 46-1201, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 46-1201 Sections 46-1201 to 46-1241 and section 1158  
23 of this act shall be known and may be cited as the Water Well  
24 Standards and Contractors' Liensing Practice Act.

25 Sec. 1144. Section 46-1202, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           46-1202 The purposes of the Water Well Standards and  
3 Contractors' ~~Licensing~~ Practice Act are to: (1) Provide for the  
4 protection of ground water through the licensing and regulation  
5 of water well contractors, ~~and~~ pump installation contractors,  
6 ~~and the certification of~~ water well drilling supervisors, pump  
7 installation supervisors, water well monitoring technicians, and  
8 natural resources ground water technicians in the State of  
9 Nebraska; (2) protect the health and general welfare of the  
10 citizens of the state; (3) protect ground water resources from  
11 potential pollution by providing for proper siting and construction  
12 of water wells and proper decommissioning of water wells; and (4)  
13 provide data on potential water supplies through well logs which  
14 will promote the economic and efficient utilization and management  
15 of the water resources of the state.

16           Sec. 1145. Section 46-1203, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           46-1203 For purposes of the Water Well Standards and  
19 Contractors' ~~Licensing~~ Practice Act, unless the context otherwise  
20 requires, the definitions found in sections 46-1204.01 to 46-1216  
21 shall be used.

22           Sec. 1146. Section 46-1204.01, Reissue Revised Statutes  
23 of Nebraska, is amended to read:

24           46-1204.01 Abandoned water well means any water well  
25 (1) the use of which has been accomplished or permanently

1 discontinued, (2) which has been decommissioned as described in  
2 the rules and regulations of the Department of Health and Human  
3 Services Regulation and Licensure, and (3) for which the notice  
4 of abandonment required by subsection (2) of section 46-602 has  
5 been filed with the Department of Natural Resources by the licensed  
6 water well contractor or licensed pump installation contractor who  
7 decommissioned the water well or by the water well owner if the  
8 owner decommissioned the water well.

9           Sec. 1147. Section 46-1205, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           46-1205 Board ~~shall mean~~ means the Water Well Standards  
12 and Contractors' Licensing Board, ~~created in section 46-1217.~~

13           Sec. 1148. Section 46-1205.01, Reissue Revised Statutes  
14 of Nebraska, is amended to read:

15           46-1205.01 ~~Certified~~ Licensed natural resources ground  
16 water technician means a natural resources ground water technician  
17 who has taken a training course, passed an examination based on  
18 the training course, and received a ~~certificate~~ license from the  
19 department indicating that he or she is a ~~certified~~ licensed  
20 natural resources ground water technician.

21           Sec. 1149. Section 46-1207.01, Reissue Revised Statutes  
22 of Nebraska, is amended to read:

23           46-1207.01 (1) Illegal water well ~~shall mean~~ means any  
24 water well which has not been properly decommissioned and which  
25 meets any of the following conditions:

1           (a) The water well is in such a condition that it cannot  
2 be placed in active or inactive status;

3           (b) Any necessary operating equipment has been removed  
4 and the well has not been placed in inactive status;

5           (c) The water well is in such a state of disrepair that  
6 continued use for the purpose for which it was constructed is  
7 impractical;

8           (d) The water well was constructed after October 1, 1986,  
9 but not constructed by a licensed water well contractor or by an  
10 individual on land owned by him or her and used by him or her for  
11 farming, ranching, or agricultural purposes or as his or her place  
12 of abode;

13           (e) The water well poses a health or safety hazard;

14           (f) The water well is an illegal water well in accordance  
15 with section 46-706; or

16           (g) The water well has been constructed after October  
17 1, 1986, and such well is not in compliance with the standards  
18 developed under the Water Well Standards and Contractors' ~~Licensing~~  
19 Practice Act.

20           (2) Whenever the department classifies a water well as  
21 an illegal water well, the landowner may petition the department  
22 to reclassify the water well as an active status water well, an  
23 inactive status water well, or an abandoned water well.

24           Sec. 1150. Section 46-1209, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           46-1209 ~~Pump~~ Licensed pump installation contractor means  
2 an individual who has obtained a license from the department  
3 and who is a the principal officer, director, manager, or  
4 owner-operator of any business engaged in the installation of  
5 pumps and pumping equipment or the decommissioning of water wells.  
6 ~~Pump installation contractor does not include:~~ (1) An individual  
7 who installs or repairs pumps and pumping equipment for a water  
8 well, or who decommissions a driven sandpoint well, which is on  
9 land owned by him or her and used by him or her for farming,  
10 ranching, or agricultural purposes or as his or her place of  
11 abode; (2) a pump installation supervisor; or (3) an individual  
12 who repairs pumps and pumping equipment at a location other than a  
13 water well location.

14           Sec. 1151. Section 46-1210, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           46-1210 ~~Pump~~ Licensed pump installation supervisor means  
17 any individual who has obtained a license from the department and  
18 who is engaged in the installation of pumps and pumping equipment  
19 or the decommissioning of water wells. Such supervisor may have  
20 discretionary and supervisory authority over other employees of a  
21 pump installation contractor. ~~Pump installation supervisor does not~~  
22 ~~include:~~ (1) An individual who installs or repairs pumps or pumping  
23 equipment for a water well, or decommissions a driven sandpoint  
24 well, which is on land owned by him or her and used by him or her  
25 for farming, ranching, or agricultural purposes or as his or her



1 ~~place of abode; (2) an individual who repairs pumps and pumping~~  
 2 ~~equipment at a location other than a water well location; or (3)~~  
 3 ~~any licensed pump installation contractor.~~

4           Sec. 1152. Section 46-1213, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6           46-1213 ~~Water~~ Licensed water well contractor means an  
 7 individual who has obtained a license from the department and who  
 8 is a the principal officer, director, manager, or owner-operator  
 9 of any business engaged in the construction or decommissioning  
 10 of water wells. ~~Water well contractor does not include: (1) An~~  
 11 ~~individual who constructs a water well, or who decommissions a~~  
 12 ~~driven sandpoint 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; or (2) a water well drilling~~  
 15 ~~supervisor.~~

16           Sec. 1153. Section 46-1214, Reissue Revised Statutes of  
 17 Nebraska, is amended to read:

18           46-1214 ~~Water~~ Licensed water well drilling supervisor  
 19 means any individual who has obtained a license from the department  
 20 and who is engaged in the construction or decommissioning of  
 21 water wells. Such supervisor may have discretionary and supervisory  
 22 authority over other employees of a water well contractor. ~~Water~~  
 23 ~~well drilling supervisor does not include: (1) An individual who~~  
 24 ~~constructs a water well, or decommissions a driven sandpoint well,~~  
 25 ~~which is on land owned by him or her and used by him or her for~~

1 ~~farming, ranching, or agricultural purposes or as his or her place~~  
 2 ~~of abode, or (2) any licensed water well contractor.~~

3           Sec. 1154. Section 46-1214.01, Reissue Revised Statutes  
 4 of Nebraska, is amended to read:

5           46-1214.01   ~~Water~~   Licensed water well   monitoring  
 6 technician means any individual who has obtained a license from the  
 7 department and who is engaged solely in the measuring of ground  
 8 water levels, the collection of ground water samples from existing  
 9 water wells, or the inspection of installed water well equipment or  
 10 pumping systems. A licensed water well monitoring technician shall  
 11 not supervise the work of others. ~~Water well monitoring technician~~  
 12 ~~does not include: (1) An individual who constructs or decommissions~~  
 13 ~~a water well or installs or repairs pumps or pumping equipment or~~  
 14 ~~a water well; (2) a natural resources ground water technician; or~~  
 15 ~~(3) an individual who carries out the measurement, sampling, or~~  
 16 ~~inspection of a water well which is on land owned by him or her and~~  
 17 ~~used by him or her for farming, ranching, or agricultural purposes~~  
 18 ~~or as his or her place of abode.~~

19           Sec. 1155. Section 46-1217, Revised Statutes Cumulative  
 20 Supplement, 2006, is amended to read:

21           46-1217   (1) There is hereby created a Water Well  
 22 Standards and Contractors' Licensing Board. The board shall be  
 23 composed of ten members, six of whom shall be appointed by  
 24 the Governor as follows: ~~(1)~~ A (a) A licensed water well  
 25 contractor representing irrigation water well contractors, ~~(2)~~

1 a (b) a licensed water well contractor representing domestic water  
2 well contractors, ~~(3) a (c) a licensed water well contractor~~  
3 representing municipal and industrial water well contractors, ~~(4) a~~  
4 (d) a licensed pump installation contractor, ~~(5) (e) a manufacturer~~  
5 or supplier of water well or pumping equipment, and ~~(6) (f)~~  
6 a holder of a license ~~or certificate~~ issued under the Water  
7 Well Standards and Contractors' Licensing Practice Act employed  
8 by a natural resources district. The Director of ~~Health and~~  
9 ~~Human Services~~ Regulation and Licensure or his or her designated  
10 representative, the Director of Environmental Quality or his or  
11 her designated representative, the Director of Natural Resources  
12 or his or her designated representative, and the director of the  
13 Conservation and Survey Division of the University of Nebraska or  
14 his or her designated representative shall also serve as members of  
15 the board.

16 (2) Each member shall be a resident of the state. Each  
17 ~~appointed member of the board~~ industry representative shall have  
18 had at least five years of experience in the business of his or  
19 her category prior to appointment and shall be actively engaged  
20 in such business at the time of appointment and while serving on  
21 the board. Each member representing a category subject to licensing  
22 under the Water Well Standards and Contractors' Licensing Practice  
23 ~~Act, with the exception of members initially appointed,~~ shall  
24 be licensed by the department pursuant to such act. In making  
25 appointments, the Governor may consider recommendations made by the

1 trade associations of each category.

2 Sec. 1156. Section 46-1218, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 46-1218 ~~The Governor shall make the first appointments to~~  
5 ~~the board within sixty days after October 1, 1986. Successors to~~  
6 ~~the first appointees to the board shall be appointed for four-year~~  
7 ~~terms. Two of the initial appointees shall serve terms of two~~  
8 ~~years and two of the initial appointees shall serve terms of three~~  
9 ~~years as determined by lot. The term of the remaining initial~~  
10 ~~appointee shall be four years. (1) The terms of members of the~~  
11 ~~board appointed pursuant to subdivisions (1)(e) and (f) of section~~  
12 ~~46-1217 shall be extended by one year to five-year terms, and the~~  
13 ~~successors to members appointed pursuant to subdivisions (1)(a)~~  
14 ~~through (f) of such section shall be appointed for five-year terms.~~  
15 No appointed member shall be appointed to serve ~~three~~ more than two  
16 consecutive full ~~four-year~~ five-year terms.

17 (2) Each appointed member shall hold office until the  
18 expiration of his or her term or until a successor has been  
19 appointed and qualified. Any vacancy occurring in the appointed  
20 board membership, other than by expiration of a term, shall be  
21 filled within sixty days by the Governor by appointment from the  
22 appropriate category for the unexpired term.

23 Sec. 1157. Section 46-1219, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 46-1219 (1) ~~The board shall meet within sixty days after~~

1 ~~the appointment of its members and thereafter at such other times~~  
2 ~~as is deemed necessary or advisable.~~ Special meetings of the board  
3 shall be called upon the written request of any three members of  
4 the board. The place of all meetings shall be at the offices of the  
5 department, unless otherwise determined by the board. ~~At the first~~  
6 ~~meeting of the board,~~ a chairperson and vice-chairperson shall be  
7 selected.

8 (2) A majority of the members of the board shall  
9 constitute a quorum for the transaction of business. Every act  
10 of a majority of the total number of members of the board shall be  
11 deemed to be an act of the board.

12 Sec. 1158. (1) All water well construction and  
13 monitoring, pump and pumping equipment installation and repair,  
14 and decommissioning shall be accomplished following the standards  
15 developed under the Water Well Standards and Contractors' Practice  
16 Act.

17 (2) A licensed water well contractor may have supervisory  
18 authority over all employees.

19 (3) A licensed water well supervisor shall work under  
20 the supervision of a licensed water well contractor and may have  
21 supervisory authority over noncredentialed employees.

22 (4) A licensed pump installation contractor may have  
23 supervisory authority over all employees.

24 (5) A licensed pump installation supervisor shall work  
25 under the supervision of a licensed pump installation contractor

1 and may have supervisory authority over noncredentialed employees.

2 (6) A licensed water well monitoring technician may work  
3 independently and shall not have supervisory authority.

4 (7) A licensed natural resources ground water technician  
5 employed by a natural resources district may work independently  
6 and shall not have supervisory authority over any credentialed or  
7 noncredentialed persons.

8 (8) An individual who owns land and uses it for farming,  
9 ranching, or agricultural purposes or as his or her place of abode  
10 may, on such land, construct a water well, install a pump in a  
11 well, or decommission a driven sandpoint well.

12 Sec. 1159. Section 46-1223, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 46-1223 ~~(1)~~ The department with the assistance of the  
15 board shall cause examination to be made of applicants for  
16 licensure or certification. The board shall determine the type,  
17 categories, contents, and required passing grade of examinations  
18 to be administered to applicants for licensing or certification.  
19 Examinations shall be held at such times and places as the  
20 department, with the advice of the board, may determine. The  
21 department shall act within ninety days upon all completed  
22 applications for licensure or certification.

23 ~~(2)~~ (1) Examinations for water well monitoring  
24 technicians shall be designed and adopted to examine the knowledge  
25 of the applicant regarding the minimum standards for water wells

1 and water well pumps, the geological characteristics of the  
2 state, measuring ground water levels, and water sampling practices  
3 and techniques. Examinations for natural resources ground water  
4 technicians shall examine the knowledge of the applicant regarding  
5 inspection of chemigation systems, measuring and recording static  
6 water levels, inspecting and servicing flow meters, and water  
7 sampling practices and techniques. All other examinations shall be  
8 designed and adopted to examine the knowledge of the applicant  
9 regarding the minimum standards for water wells and water well  
10 pumps, the geological characteristics of the state, current  
11 drilling or pump installation practices and techniques, and such  
12 other knowledge as deemed appropriate by the board. ~~The board~~  
13 ~~may adopt any nationally developed standard examinations as~~  
14 ~~constituting part or all of the Nebraska examinations.~~

15 ~~(3)~~ (2) An examinee who fails to pass the initial  
16 examination may retake such examination without charge at any  
17 regularly scheduled examination held within ~~four~~ twelve months  
18 after failing to pass the initial examination, except that when  
19 a national standardized examination is utilized which requires  
20 the payment of a fee to purchase such examination, the board  
21 shall require the applicant to pay the appropriate examination fee  
22 whether an initial examination or a retake of an examination is  
23 involved.

24 ~~(4)~~ (3) In cases of hardship, the board may provide  
25 and direct that special arrangements for administering examinations

1 be utilized. The board may also provide for temporary hardship  
2 licensing without examination due to the death of the current  
3 license holder or for other good cause shown.

4 Sec. 1160. Section 46-1223.01, Reissue Revised Statutes  
5 of Nebraska, is amended to read:

6 46-1223.01 The department shall develop a ~~certification~~  
7 program that is designed to train individuals to become ~~certified~~  
8 licensed natural resources ground water technicians. Such course  
9 shall be developed by the department in consultation with the  
10 natural resources districts. Such course shall include inspection  
11 of chemigation systems, measuring and recording static water  
12 levels, inspecting and servicing flow meters, and taking water  
13 samples. Training sessions shall not be less than two hours and  
14 shall not exceed eight hours. ~~At the end of the training session,~~  
15 ~~individuals taking the training shall be required to take a written~~  
16 ~~examination.~~

17 Sec. 1161. Section 46-1224, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 46-1224 (1) Except as otherwise provided in subsections  
20 (2) through (4) of this section, the board shall set reasonable  
21 fees in an amount calculated to recover the costs incurred by the  
22 department and the board in administering and carrying out the  
23 purposes of the Water Well Standards and Contractors' ~~Licensing~~  
24 Practice Act. Such fees shall be paid to the department and  
25 remitted to the State Treasurer for credit to the Water Well



1 Standards and Contractors' Licensing Fund, which fund is hereby  
2 created. Such fund shall be used by the department and the board  
3 for the purpose of administering the Water Well Standards and  
4 Contractors' ~~Licensing~~ Practice Act. Additionally, such fund shall  
5 be used to pay any required fee to a contractor which provides the  
6 on-line services for registration of water wells. Any discount in  
7 the amount paid the state by a credit card, charge card, or debit  
8 card company or a third-party merchant bank for such registration  
9 fees shall be deducted from the portion of the registration fee  
10 collected pursuant to this section. Any money in the fund available  
11 for investment shall be invested by the state investment officer  
12 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
13 State Funds Investment Act.

14 (2) Fees for credentialing individuals under the Water  
15 Well Standards and Contractors' ~~Licensing~~ Practice Act shall be  
16 established and collected as provided in ~~section 71-162.~~ sections  
17 51 to 57 of this act.

18 (3) The board shall set a fee of not less than  
19 twenty-five dollars and not more than forty dollars for each  
20 water well which is required to be registered and which is designed  
21 and constructed to pump less than fifty gallons per minute and  
22 each monitoring and observation well and a fee of not less than  
23 forty dollars and not more than eighty dollars for each water  
24 well which is required to be registered and which is designed and  
25 constructed to pump fifty gallons per minute or more. For water

1 wells permitted pursuant to the Industrial Ground Water Regulatory  
2 Act, the fee set pursuant to this subsection shall be collected  
3 for each of the first ten such water wells registered, and for  
4 each group of ten or fewer such water wells registered thereafter,  
5 the fee shall be collected as if only one water well was being  
6 registered. For a series of two or more water wells completed and  
7 pumped into a common carrier, as defined in section 46-601.01,  
8 as part of a single site plan for irrigation purposes, the fee  
9 set pursuant to this subsection shall be collected for each of  
10 the first two such water wells registered. For a series of water  
11 wells completed for purposes of installation of a ground heat  
12 exchanger for a structure for utilizing the geothermal properties  
13 of the ground, the fee set pursuant to this subsection shall be  
14 collected as if only one water well was being registered. For water  
15 wells constructed as part of a single site plan for monitoring  
16 ground water, obtaining hydrogeologic information, or extracting  
17 contaminants from the ground and for water wells constructed as  
18 part of remedial action approved by the Department of Environmental  
19 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the  
20 fee set pursuant to this subsection shall be collected for each of  
21 the first five such water wells registered, and for each group of  
22 five or fewer such water wells registered thereafter, the fee shall  
23 be collected as if only one water well was being registered. The  
24 fees shall be remitted to the Director of Natural Resources with  
25 the registration form required by section 46-602 and shall be in

1 addition to the fee in section 46-606. The director shall remit the  
2 fee to the State Treasurer for credit to the Water Well Standards  
3 and Contractors' Licensing Fund.

4 (4) The board shall set an application fee for a  
5 declaratory ruling or variance of not less than fifty dollars  
6 and not more than one hundred dollars. The fee shall be remitted  
7 to the State Treasurer for credit to the Water Well Standards and  
8 Contractors' Licensing Fund.

9 Sec. 1162. Section 46-1225, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 46-1225 ~~(1)~~ The board shall adopt and promulgate rules  
12 and regulations to establish continuing competency requirements for  
13 persons licensed ~~or certified~~ under the Water Well Standards  
14 and Contractors' Licensing Practice Act. Continuing education  
15 is sufficient to meet continuing competency requirements. Such  
16 requirements may also include, but not be limited to, one or more  
17 of the continuing competency activities listed in section 71-161.09  
18 which a licensed ~~or certified~~ person may select as an alternative  
19 to continuing education.

20 ~~(2)~~ Each renewal applicant shall, on or before the date  
21 of expiration of his or her license or certificate, complete  
22 documentation as required by the board that he or she has complied  
23 with the continuing competency requirements during the preceding  
24 period. Any licensee or certificate holder who has not complied  
25 with the continuing competency requirements shall not be issued a

1 ~~renewal license or certificate, unless he or she is exempted from~~  
2 ~~the continuing competency requirements or he or she is unable to~~  
3 ~~comply with the requirements due to circumstances beyond his or~~  
4 ~~her control as determined by the board. Procedures for refusal of~~  
5 ~~renewal of licenses and certificates or reinstatement of licenses~~  
6 ~~and certificates shall be in accordance with section 46-1237.~~

7           Sec. 1163. Section 46-1227, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           46-1227 The department, with the advice and consent  
10 approval of the board, shall adopt and promulgate uniform rules and  
11 regulations, in accordance with the rules and regulations adopted  
12 and promulgated pursuant to sections 46-602 and 81-1505, for  
13 the establishment of standards for the (1) construction of water  
14 wells, (2) installation of pumps and pumping equipment, and (3)  
15 decommissioning water wells. Such rules, regulations, and standards  
16 may recognize differing hydrologic and geologic conditions, may  
17 recognize differing uses of any developed supplies, and shall be  
18 designed to promote efficient methods of operation and prevent  
19 water wells from becoming a source of contamination to the aquifer.  
20 Such standards shall be applicable whether such activities are  
21 carried out by a licensed water well contractor, a licensed pump  
22 installation contractor, a licensed water well drilling supervisor,  
23 a licensed pump installation supervisor, or any other person.  
24 Nothing in this section shall be construed to require that the  
25 department adopt, promulgate, or amend rules and regulations for

1 programs in existence on October 1, 1986.

2           Sec. 1164. Section 46-1229, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           46-1229 Any person desiring to engage in the construction  
5 of water wells, the installation of pumps and pumping equipment, or  
6 the decommissioning of water wells shall make initial application  
7 for a license to the department in accordance with section 30 of  
8 this act. Each such application shall include satisfactory evidence  
9 that the applicant is at least the age of majority and is of  
10 good moral character. The department shall charge an application  
11 fee established as provided in section 71-162 for the filing of  
12 such application. The department shall not act upon any application  
13 until the application fee for such license has been paid. A  
14 license to engage in the construction or decommissioning of water  
15 wells or the installation of pumps and pumping equipment shall be  
16 issued to every applicant who demonstrates professional competence  
17 by successfully passing the examination prescribed in section  
18 46-1223, pays the appropriate license fee, and otherwise complies  
19 with the Uniform Credentialing Act, the Water Well Standards and  
20 Contractors' Licensing Practice Act and all standards, rules, and  
21 regulations adopted and promulgated pursuant to such ~~act~~. acts.  
22 Applicants shall receive licenses for any category or combination  
23 of categories for which they have successfully passed the required  
24 examination. If the applicant is an individual, the application  
25 shall include the applicant's social security number.

1           Sec. 1165. Section 46-1230, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           46-1230 Each applicant for ~~licensing or relicensing~~ as  
4 a an initial license as a licensed water well contractor or  
5 as a licensed pump installation contractor shall furnish proof  
6 to the department that there is in force a policy of public  
7 liability and property damage insurance issued to the applicant in  
8 an amount established by the department by rules and regulations  
9 sufficient to protect the public interest. Proof of insurance shall  
10 be maintained and submitted annually for the term of the active  
11 license.

12           Sec. 1166. Section 46-1231, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           46-1231 Each water well drilling supervisor, pump  
15 installation supervisor, natural resources ground water technician,  
16 and water well monitoring technician shall make application for a  
17 certificate of competence license in his or her respective trade.  
18 ~~The application shall include the applicant's social security~~  
19 ~~number. Such application shall be made to the department which~~  
20 ~~shall charge an application fee established as provided in section~~  
21 ~~71-162 for the filing of such application, and the department shall~~  
22 ~~not act upon any application until the application fee for such~~  
23 ~~certificate has been paid. A certificate license shall be issued to~~  
24 ~~every applicant who successfully passes the examination for such~~  
25 ~~certificate, pays the appropriate certification fee, license and~~

1 otherwise complies with the Uniform Credentialing Act, the Water  
2 Well Standards and Contractors' Licensing Practice Act and all  
3 standards, rules, and regulations adopted and promulgated pursuant  
4 to such ~~act~~, acts. Any individual employed by a licensed water  
5 well contractor or a licensed pump installation contractor who is  
6 not deemed to qualify as a licensed water well drilling supervisor  
7 or licensed pump installation supervisor may ~~make application for~~  
8 ~~a certificate of competence~~ apply for a license in his or her  
9 respective trade in the same manner as the licensed water well  
10 drilling supervisor or the licensed pump installation supervisor.  
11 A supervisor holding a certificate of competence in his or her  
12 respective trade on December 1, 2008, shall be deemed to be  
13 licensed as a supervisor in such trade on such date. A technician  
14 holding a certificate of competence in his or her respective trade  
15 on December 1, 2008, shall be deemed to be licensed as a technician  
16 in such trade on such date.

17           Sec. 1167. Section 46-1233, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           46-1233 ~~No water well shall be constructed, no pump or~~  
20 ~~pumping equipment shall be installed, and no water well shall be~~  
21 ~~decommissioned by a person engaged in the construction of water~~  
22 ~~wells or installation of pumps and pumping equipment unless the~~  
23 ~~construction, installation, or decommissioning is carried out or~~  
24 ~~supervised by a licensed water well contractor, water well drilling~~  
25 ~~supervisor, pump installation contractor, or pump installation~~

1 ~~supervisor.~~ (1) Any person constructing a water well, installing or  
2 repairing pumps onsite, or decommissioning a water well shall do  
3 such work in accordance with the rules and regulations developed  
4 under the Water Well Standards and Contractors' Practice Act.

5 (2) A water well shall be constructed, pumps and pumping  
6 equipment shall be installed and repaired onsite, and water wells  
7 shall be decommissioned by a licensed contractor or supervisor  
8 or a person working directly under the supervision of a licensed  
9 contractor or supervisor, except that an individual may construct  
10 a water well or install and repair pumps and pumping equipment  
11 onsite on land owned by him or her and used by him or her for  
12 farming, ranching, or agricultural purposes or as his or her place  
13 of abode. No water well shall be opened or the seal broken by any  
14 person other than an owner of the water well unless (a) the opening  
15 or breaking of the seal is carried out by a licensed water well  
16 monitoring technician or a licensed natural resources ground water  
17 technician, (b) the opening or breaking of the seal is carried  
18 out by a licensed operator of a public water system in the course  
19 of his or her employment or someone under his or her supervision,  
20 or (c) a state electrical inspector in the course of his or her  
21 employment.

22 (3) For purposes of this section, supervision means the  
23 ready availability of the person licensed ~~or~~ certified pursuant to  
24 the Water Well Standards and Contractors' ~~Licensing~~ Practice Act  
25 for consultation and direction of the activities of any person



1 not licensed ~~or certified~~ who assists in the construction of  
 2 a water well, the installation of pumps and pumping equipment,  
 3 or decommissioning of a water well. Contact with the licensed  
 4 contractor or ~~certified~~ supervisor by telecommunication shall be  
 5 sufficient to show ready availability.

6 Sec. 1168. Section 46-1235, Reissue Revised Statutes of  
 7 Nebraska, is amended to read:

8 46-1235 In cases other than those relating to failure  
 9 to meet the requirements for an initial license, ~~or an initial~~  
 10 ~~certificate,~~ the department may deny, refuse renewal of, suspend,  
 11 or revoke licenses ~~or certificates~~ or may take other disciplinary  
 12 action in accordance with section 96 of this act for the grounds  
 13 found in sections 78 and 79 of this act and for any of the  
 14 following acts or offenses:

15 ~~(1) Practice of fraud or deceit in obtaining a license or~~  
 16 ~~certificate;~~

17 ~~(2) (1) Violation of the Water Well Standards and~~  
 18 ~~Contractors' Licensing Practice Act or any standards, rules, or~~  
 19 ~~regulations adopted and promulgated pursuant to such act;~~

20 ~~(3) Incompetence or gross negligence in the performance~~  
 21 ~~of any activity for which licenses or certificates are issued~~  
 22 ~~pursuant to the act;~~

23 ~~(4) (2) Conduct or practices detrimental to the health~~  
 24 ~~or safety of persons hiring the services of the licensee or~~  
 25 ~~certificate holder or of members of the general public;~~

1           ~~(5) Practice of the trade fraudulently, beyond the~~  
2 ~~authorized scope, or with manifest incapacity;~~

3           ~~(6) Practice of the trade while the ability to practice~~  
4 ~~is impaired by alcohol, controlled substances, narcotic drugs, or~~  
5 ~~physical disability;~~

6           ~~(7) Permitting, aiding, or abetting the practice of the~~  
7 ~~trade or the performance of activities requiring a license or~~  
8 ~~certificate by a person not licensed or certified to do so;~~

9           ~~(8) Having had a license or certificate denied,~~  
10 ~~refused renewal, limited, suspended, or revoked or having been~~  
11 ~~disciplined in any other manner by another state or jurisdiction~~  
12 ~~to practice water well construction, water well drilling, water~~  
13 ~~well decommissioning, or pump installation based upon acts by~~  
14 ~~the applicant, licensee, or certificate holder similar to acts~~  
15 ~~described in this section. A certified copy of the record of~~  
16 ~~denial, refusal of renewal, limitation, suspension, or revocation~~  
17 ~~of a license or certificate or the taking of other disciplinary~~  
18 ~~action by another state or jurisdiction shall be conclusive~~  
19 ~~evidence;~~

20           ~~(9) Unprofessional conduct as may be defined in rules and~~  
21 ~~regulations of the board with approval of the department;~~

22           ~~(10) (3) Practice of the trade while the license or~~  
23 ~~certificate to do so is suspended or practice of the trade~~  
24 ~~in contravention of any limitation placed upon the license; or~~  
25 ~~certificate;~~

1           ~~(11)~~ (4) Failing to file a water well registration  
2 required by subsection (1), (2), (3), (4), or (5) of section 46-602  
3 or failing to file a notice required by subsection (7) of such  
4 section; or

5           ~~(12)~~ (5) Failing to file a properly completed notice of  
6 abandonment of a water well required by subsection (8) of section  
7 46-602.

8           A licensee or certificate holder shall not engage in the  
9 practice of the trade after a license or certificate is revoked  
10 or during the time for which it is suspended. If a license or  
11 certificate is suspended, the suspension shall be for a definite  
12 period of time to be fixed by the Director of Regulation and  
13 Licensure, and such license or certificate shall be automatically  
14 reinstated upon the expiration of such period if the current  
15 renewal fee has been paid. If such license or certificate is  
16 revoked, such revocation shall be for one year.

17           Sec. 1169. Section 46-1238, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           46-1238 Any person who fails to employ or use at least  
20 one individual appropriately licensed or certified and available or  
21 any person who engages, without a license or certificate for such  
22 activities, in the construction of water wells, the installation of  
23 pumps and pumping equipment, the decommissioning of water wells,  
24 or the measuring of ground water levels, the collection of ground  
25 water samples from existing water wells, or the inspection of

1 installed water well equipment, pumping systems, or chemigation  
2 regulation devices, in addition to the other penalties provided  
3 in the Uniform Credentialing Act or the Water Well Standards  
4 and Contractors' ~~Licensing~~ Practice Act, may be enjoined from  
5 continuing such activities.

6           Sec. 1170. Section 46-1239, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           46-1239 Any person who fails to employ or use at least  
9 one individual appropriately licensed ~~or certified~~ and available or  
10 any person who engages, without a license ~~or certificate~~ for such  
11 activities, in the construction of water wells, the installation of  
12 pumps and pumping equipment, or the decommissioning of water wells  
13 is guilty of a Class II misdemeanor or subject to a civil penalty  
14 of not more than one thousand dollars for each day the violation  
15 occurs.

16           Any civil penalty assessed and unpaid shall constitute a  
17 debt to the state which may be collected in the manner of a lien  
18 foreclosure or sued for and recovered in a proper form of action in  
19 the name of the state in the district court of the county in which  
20 the violator resides or owns property. An action to collect a civil  
21 penalty shall be brought within two years of the alleged violation  
22 providing the basis of the penalty, except that if the cause of  
23 action is not discovered and could not be reasonably discovered  
24 within the two-year period, the action may be commenced within two  
25 years after the date of discovery or after the date of discovery

1 of facts which would reasonably lead to discovery, whichever is  
2 earlier. The department shall remit the civil penalty to the State  
3 Treasurer, within thirty days after receipt, for distribution in  
4 accordance with Article VII, section 5, of the Constitution of  
5 Nebraska.

6           Sec. 1171. Section 46-1240, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           46-1240 Any person who engages in or any person who  
9 employs or uses a person who engages in the construction of  
10 water wells, the installation of pumps and pumping equipment,  
11 the decommissioning of water wells, or the measuring of ground  
12 water levels, the collection of ground water samples from existing  
13 water wells, or the inspection of installed water well equipment,  
14 pumping systems, or chemigation regulation devices or who fails  
15 to decommission or decommissions an illegal water well without  
16 complying with the standards adopted and promulgated pursuant to  
17 the Water Well Standards and Contractors' Licensing Practice Act  
18 shall be guilty of a Class III misdemeanor or subject to a civil  
19 penalty of not more than five hundred dollars for each day an  
20 intentional violation occurs and may be enjoined from continuing  
21 such activity, including a mandatory injunction.

22           Any civil penalty assessed and unpaid shall constitute a  
23 debt to the state which may be collected in the manner of a lien  
24 foreclosure or sued for and recovered in a proper form of action  
25 in the name of the state in the district court of the county in

1 which the violator resides or owns property. An action to collect  
2 a civil penalty shall be brought within two years of the alleged  
3 violation providing the basis of the penalty, except that if the  
4 cause of action is not discovered and could not be reasonably  
5 discovered within the two-year period, the action may be commenced  
6 within two years after the date of discovery or after the date  
7 of discovery of facts which would reasonably lead to discovery,  
8 whichever is earlier. The department shall ~~within thirty days~~  
9 ~~after receipt,~~ remit the civil penalty to the State Treasurer,  
10 within thirty days after receipt, for credit to the permanent  
11 ~~school fund.~~ distribution in accordance with Article VII, section  
12 5, of the Constitution of Nebraska.

13           Sec. 1172. Section 46-1241, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           46-1241 Any owner of a water well or a licensed water  
16 well contractor who engages in an act of or the business of  
17 constructing a water well shall keep and maintain an accurate well  
18 log of the construction of each such water well. The well log shall  
19 be available to the department for inspection and copying during  
20 reasonable hours or the regular business hours of the contractor.

21           The well log shall include the following information:

- 22           (1) Legal description of the water well;
- 23           (2) Description and depth of geologic materials  
24 encountered;
- 25           (3) Depth and diameter or dimension of constructed water

- 1 well and test hole;
- 2 (4) Depth and diameter or dimension of excavated hole if  
3 applicable;
- 4 (5) Depth of formation stabilizer or gravel pack and size  
5 of particles if used;
- 6 (6) Depth and thickness of grout or other sealing  
7 material if applicable;
- 8 (7) Casing information, including length, inside  
9 diameter, wall thickness, and type of material if applicable;
- 10 (8) Screen information, including length, trade name,  
11 inside and outside diameter, slot size, and type of material if  
12 applicable;
- 13 (9) Static water level;
- 14 (10) Water level when pumped at the designated rate,  
15 giving the rate of pumping and amount of time pumped, if  
16 applicable;
- 17 (11) Yield of water well in gallons per minute or gallons  
18 per hour if applicable;
- 19 (12) Signature of water well contractor;
- 20 (13) Dates drilling commenced and construction completed;
- 21 (14) Intended use of the water well;
- 22 (15) Name and address of the owner;
- 23 (16) Identification number of any permit for the water  
24 well issued pursuant to Chapter 46, article 6, Chapter 66, article  
25 11, or any other law;

1           (17) Name, address, and license number of any license  
2 issued pursuant to the Water Well Standards and Contractors'  
3 ~~Licensing Practice Act~~ of any person, other than the owner of the  
4 water well, who constructed the water well; and

5           (18) Other data as the board reasonably requires.

6           Sec. 1173. Section 54-311, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           54-311 It shall be unlawful for the owner or holder of  
9 any real estate in the State of Nebraska to leave uncovered any  
10 well or other pitfall into which any person or animal may fall or  
11 receive injury. Every pitfall shall be filled, adequately covered,  
12 or enclosed so as not to constitute a safety hazard. Every well  
13 not in use shall be decommissioned or properly placed in inactive  
14 status in accordance with the Water Well Standards and Contractors'  
15 ~~Licensing Practice Act~~ so as not to constitute a safety hazard.

16           Sec. 1174. Section 60-4,118.02, Reissue Revised Statutes  
17 of Nebraska, is amended to read:

18           60-4,118.02 (1) There is hereby created the Health  
19 Advisory Board which shall consist of six health care providers  
20 appointed by the director with the advice and recommendation of  
21 the Director of Regulation and Licensure. The members of the board  
22 shall consist of one general practice physician, one physician  
23 engaged in the practice of ophthalmology, one physician engaged in  
24 the practice of orthopedic surgery, one physician engaged in the  
25 practice of neurological medicine and surgery, one optometrist, and



1 one psychiatrist. Each member of the board shall be licensed to  
2 practice his or her profession pursuant to the Uniform ~~Licensing~~  
3 ~~Law~~, Credentialing Act.

4 (2) Of the initial members of the board, two shall be  
5 appointed for four years, two shall be appointed for three years,  
6 and two shall be appointed for two years. Thereafter, each member  
7 shall be appointed for a term of four years and until a successor  
8 is appointed and qualified. If a vacancy occurs for any reason  
9 other than the expiration of a term, the Director of Motor Vehicles  
10 may appoint a person licensed in the same type of professional  
11 practice as the member being replaced to serve out the unexpired  
12 term. Members of the board shall be reimbursed for their actual and  
13 necessary expenses as provided in sections 81-1174 to 81-1177.

14 (3) The board shall meet as necessary at the call of the  
15 director. At the initial meeting of the board following completion  
16 of the initial appointments, the board shall select from among its  
17 members a chairperson and shall designate any other officers or  
18 committees as it deems necessary. The board may select officers and  
19 committees annually or as necessary to fill vacancies and to carry  
20 out duties of the board.

21 Sec. 1175. Section 60-6,261, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 60-6,261 Sections 60-6,257 to 60-6,259 shall not apply  
24 to the side or rear windows of funeral coaches, hearses, or other  
25 vehicles operated in the normal course of business by a funeral

1 establishment licensed under section ~~71-1327-~~ 555 of this act.

2           Sec. 1176. Section 69-302, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           69-302 For purposes of the Mail Order Contact Lens Act:

5           (1) Contact lens prescription means a written order  
6 bearing the original signature of an optometrist or physician or an  
7 oral or electromagnetic order issued by an optometrist or physician  
8 that authorizes the dispensing of contact lenses to a patient and  
9 meets the requirements of section 69-303;

10           (2) Department means the Department of Health and Human  
11 Services Regulation and Licensure;

12           (3) Mail-order ophthalmic provider means an entity that  
13 ships, mails, or in any manner delivers dispensed contact lenses to  
14 Nebraska residents;

15           (4) Optometrist means a person licensed to practice  
16 optometry pursuant to sections ~~71-1,133 to 71-1,136.09;~~ the  
17 Optometry Practice Act; and

18           (5) Physician means a person licensed to practice  
19 medicine and surgery pursuant to sections ~~71-1,102 to 71-1,107.14-~~  
20 the Medicine and Surgery Practice Act.

21           Sec. 1177. Section 71-1,190, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           71-1,190 (1) Every applicant for a license to practice  
24 audiology or speech-language pathology shall (1) (a)(i) for  
25 applicants graduating prior to the operative date of this section,

1 present proof of a master's degree, a doctoral degree, or ~~its~~ the  
2 equivalent of a master's degree or doctoral degree in audiology  
3 ~~or speech-language pathology~~ from an academic program approved by  
4 the board, ~~(2)~~ and (ii) for applicants graduating on or after the  
5 operative date of this section, present proof of a doctoral degree  
6 or its equivalent in audiology, (b) present proof of at least  
7 nine calendar months no less than thirty-six weeks of full-time  
8 professional experience or ~~eighteen months~~ of at least equivalent  
9 half-time professional experience in ~~speech-language pathology~~ ~~or~~  
10 audiology, supervised in the area in which licensure is sought,  
11 and ~~(3)~~ (c) successfully complete an examination approved by the  
12 department ~~on recommendation of~~ the board.

13 (2) Every applicant for a license to practice  
14 speech-language pathology shall (a) present proof of a master's  
15 degree, a doctoral degree, or the equivalent of a master's degree  
16 or doctoral degree in speech-language pathology from an academic  
17 program approved by the board, (b) present proof of no less than  
18 thirty-six weeks of full-time professional experience or equivalent  
19 half-time professional experience in speech-language pathology,  
20 supervised in the area in which licensure is sought, and (c)  
21 successfully complete an examination approved by the board.

22 (3) Presentation of official documentation of  
23 certification by a nationwide professional accrediting organization  
24 approved by the board shall be deemed equivalent to ~~subdivisions~~  
25 ~~(1), (2), and (3)~~ the requirements of this section.

1           Sec. 1178. Section 71-414, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-414 Health care practitioner facility means the  
4 residence, office, or clinic of a practitioner or group of  
5 practitioners credentialed under the Uniform ~~Licensing Law~~  
6 Credentialing Act or any distinct part of such residence, office,  
7 or clinic.

8           Sec. 1179. Section 71-425, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10          71-425 Pharmacy means a facility advertised as a  
11 pharmacy, drug store, hospital pharmacy, dispensary, or any  
12 combination of such titles where drugs or devices are dispensed as  
13 defined in ~~section 71-1,142-~~ the Pharmacy Practice Act.

14          Sec. 1180. Section 71-448, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16          71-448 The department may take disciplinary action  
17 against a license issued under the Health Care Facility Licensure  
18 Act on any of the following grounds:

19           (1) Violation of any of the provisions of the  
20 Assisted-Living Facility Act, the Health Care Facility Licensure  
21 Act, the Nebraska Nursing Home Act, or the rules and regulations  
22 adopted and promulgated under such acts;

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

25           (3) Conduct or practices detrimental to the health or

1 safety of a person residing in, served by, or employed at the  
2 health care facility or health care service;

3 (4) A report from an accreditation body or public  
4 agency sanctioning, modifying, terminating, or withdrawing the  
5 accreditation or certification of the health care facility or  
6 health care service;

7 (5) Failure to allow an agent or employee of the  
8 Department of Health and Human Services, the Department of Health  
9 and Human Services Finance and Support, or the Department of  
10 Health and Human Services Regulation and Licensure access to the  
11 health care facility or health care service for the purposes  
12 of inspection, investigation, or other information collection  
13 activities necessary to carry out the duties of such departments;

14 (6) Discrimination or retaliation against a person  
15 residing in, served by, or employed at the health care facility or  
16 health care service who has submitted a complaint or information  
17 to the Department of Health and Human Services, the Department of  
18 Health and Human Services Finance and Support, or the Department of  
19 Health and Human Services Regulation and Licensure;

20 (7) Discrimination or retaliation against a person  
21 residing in, served by, or employed at the health care facility or  
22 health care service who has presented a grievance or information to  
23 the office of the state long-term care ombudsman;

24 (8) Failure to allow a state long-term care ombudsman or  
25 an ombudsman advocate access to the health care facility or health

1 care service for the purposes of investigation necessary to carry  
2 out the duties of the office of the state long-term care ombudsman  
3 as specified in the rules and regulations adopted and promulgated  
4 by the Department of Health and Human Services;

5 (9) Violation of the Emergency Box Drug Act;

6 (10) Failure to file a report required by section  
7 ~~71-168.02~~, 127 of this act;

8 (11) Violation of the Medication Aide Act; or

9 (12) Failure to file a report of suspected abuse or  
10 neglect as required by sections 28-372 and 28-711.

11 Sec. 1181. Section 71-507, Revised Statutes Cumulative  
12 Supplement, 2006 , is amended to read:

13 71-507 For purposes of sections 71-507 to 71-513:

14 (1) Alternate facility means a facility other than a  
15 health care facility that receives a patient transported to the  
16 facility by an emergency services provider;

17 (2) Department means the Department of Health and Human  
18 Services Regulation and Licensure;

19 (3) Designated physician means the physician representing  
20 the emergency services provider as identified by name, address,  
21 and telephone number on the significant exposure report form. The  
22 designated physician shall serve as the contact for notification in  
23 the event an emergency services provider believes he or she has had  
24 significant exposure to an infectious disease or condition. Each  
25 emergency services provider shall designate a physician as provided

1 in subsection (2) of section 71-509;

2 (4) Emergency services provider means an out-of-hospital  
3 emergency care provider certified pursuant to the Emergency Medical  
4 Services Practice Act, a sheriff, a deputy sheriff, a police  
5 officer, a state highway patrol officer, a funeral director, a  
6 paid or volunteer firefighter, a school district employee, and  
7 a person rendering emergency care gratuitously as described in  
8 section 25-21,186;

9 (5) Funeral director means a person licensed under  
10 section ~~71-1302~~ 550 of this act or an employee of such a person  
11 with responsibility for transport or handling of a deceased human;

12 (6) Funeral establishment means a business licensed under  
13 section ~~71-1327~~, 555 of this act;

14 (7) Health care facility has the meaning found in  
15 sections 71-419, 71-420, 71-424, and 71-429 or any facility  
16 that receives patients of emergencies who are transported to  
17 the facility by emergency services providers;

18 (8) Infectious disease or condition means hepatitis  
19 B, hepatitis C, meningococcal meningitis, active pulmonary  
20 tuberculosis, human immunodeficiency virus, diphtheria, plague,  
21 hemorrhagic fevers, rabies, and such other diseases as the  
22 department may by rule and regulation specify;

23 (9) Patient means an individual who is sick, injured,  
24 wounded, deceased, or otherwise helpless or incapacitated;

25 (10) Patient's attending physician means the physician

1 having the primary responsibility for the patient as indicated on  
2 the records of a health care facility;

3 (11) Provider agency means any law enforcement agency,  
4 fire department, emergency medical service, funeral establishment,  
5 or other entity which employs or directs emergency services  
6 providers or public safety officials;

7 (12) Public safety official means a sheriff, a deputy  
8 sheriff, a police officer, a state highway patrol officer, a paid  
9 or volunteer firefighter, a school district employee, and any  
10 civilian law enforcement employee or volunteer performing his or  
11 her duties, other than those as an emergency services provider;

12 (13) Responsible person means an individual who has been  
13 designated by an alternate facility to carry out the facility's  
14 responsibilities under sections 71-507 to 71-513. A responsible  
15 person may be designated on a case-by-case basis;

16 (14) Significant exposure means a situation in which  
17 the body fluids, including blood, saliva, urine, respiratory  
18 secretions, or feces, of a patient or individual have entered  
19 the body of an emergency services provider or public safety  
20 official through a body opening including the mouth or nose, a  
21 mucous membrane, or a break in skin from cuts or abrasions, from  
22 a contaminated needlestick or scalpel, from intimate respiratory  
23 contact, or through any other situation when the patient's or  
24 individual's body fluids may have entered the emergency services  
25 provider's or public safety official's body or when an airborne



1 pathogen may have been transmitted from the patient or individual  
2 to the emergency services provider or public safety official; and

3 (15) Significant exposure report form means the form  
4 used by the emergency services provider to document information  
5 necessary for notification of significant exposure to an infectious  
6 disease or condition.

7 Sec. 1182. Section 71-1,104.01, Revised Statutes  
8 Cumulative Supplement, 2006, is amended to read:

9 ~~71-1,104.01~~ (1) Except as provided in section 71-519  
10 and except for newborn screening tests ordered by physicians to  
11 comply with the law of the state in which the infant was born,  
12 a physician or an individual to whom the physician has delegated  
13 authority to perform a selected act, task, or function shall not  
14 order a predictive genetic test without first obtaining the written  
15 informed consent of the patient to be tested. Written informed  
16 consent consists of a signed writing executed by the patient  
17 or the representative of a patient lacking decisional capacity  
18 that confirms that the physician or individual acting under the  
19 delegated authority of the physician has explained, and the patient  
20 or his or her representative understands:

21 (a) The nature and purpose of the predictive genetic  
22 test;

23 (b) The effectiveness and limitations of the predictive  
24 genetic test;

25 (c) The implications of taking the predictive genetic

1 test, including the medical risks and benefits;

2 (d) The future uses of the sample taken to conduct the  
3 predictive genetic test and the genetic information obtained from  
4 the predictive genetic test;

5 (e) The meaning of the predictive genetic test results  
6 and the procedure for providing notice of the results to the  
7 patient; and

8 (f) Who will have access to the sample taken to conduct  
9 the predictive genetic test and the genetic information obtained  
10 from the predictive genetic test, and the patient's right to  
11 confidential treatment of the sample and the genetic information.

12 (2) The Department of Health and Human Services  
13 Regulation and Licensure shall develop and distribute a model  
14 informed consent form for purposes of this section. The department  
15 shall include in the model form all of the information required  
16 under subsection (1) of this section. The department shall  
17 distribute the model form and all revisions to the form to  
18 physicians and other individuals subject to this section upon  
19 request and at no charge. The department shall review the model  
20 form at least annually for five years after the first model form is  
21 distributed and shall revise the model form if necessary to make  
22 the form reflect the latest developments in medical genetics. The  
23 department may also develop and distribute a pamphlet that provides  
24 further explanation of the information included in the model form.

25 (3) If a patient or his or her representative signs a

1 copy of the model informed consent form developed and distributed  
2 under subsection (2) of this section, the physician or individual  
3 acting under the delegated authority of the physician shall give  
4 the patient a copy of the signed informed consent form and shall  
5 include the original signed informed consent form in the patient's  
6 medical record.

7 (4) If a patient or his or her representative signs a  
8 copy of the model informed consent form developed and distributed  
9 under subsection (2) of this section, the patient is barred  
10 from subsequently bringing a civil action for damages against  
11 the physician, or an individual to whom the physician delegated  
12 authority to perform a selected act, task, or function, who ordered  
13 the predictive genetic test, based upon failure to obtain informed  
14 consent for the predictive genetic test.

15 (5) A physician's duty to inform a patient under this  
16 section does not require disclosure of information beyond what  
17 a physician reasonably well-qualified to order and interpret  
18 the predictive genetic test would know. A person acting under  
19 the delegated authority of a physician shall understand and be  
20 qualified to provide the information required by subsection (1) of  
21 this section.

22 (6) For purposes of this section:

23 (a) Genetic information means information about a gene,  
24 gene product, or inherited characteristic derived from a genetic  
25 test;

1           (b) Genetic test means the analysis of human DNA, RNA,  
2 chromosomes, epigenetic status, and those tissues, proteins, and  
3 metabolites used to detect heritable or somatic disease-related  
4 genotypes or karyotypes for clinical purposes. Tests of tissues,  
5 proteins, and metabolites are included only when generally accepted  
6 in the scientific and medical communities as being specifically  
7 determinative of a heritable or somatic disease-related genetic  
8 condition. Genetic test does not include a routine analysis,  
9 including a chemical analysis, of body fluids or tissues unless  
10 conducted specifically to determine a heritable or somatic  
11 disease-related genetic condition. Genetic test does not include  
12 a physical examination or imaging study. Genetic test does not  
13 include a procedure performed as a component of biomedical research  
14 that is conducted pursuant to federal common rule under 21 C.F.R.  
15 parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed  
16 on January 1, 2003; and

17           (c) Predictive genetic test means a genetic test for an  
18 otherwise undetectable genotype or karyotype relating to the risk  
19 for developing a genetically related disease or disability, the  
20 results of which can be used to substitute a patient's prior risk  
21 based on population data or family history with a risk based on  
22 genotype or karyotype. Predictive genetic test does not include  
23 diagnostic testing conducted on a person exhibiting clinical signs  
24 or symptoms of a possible genetic condition. Predictive genetic  
25 testing does not include prenatal genetic diagnosis, unless the

1 prenatal testing is conducted for an adult-onset condition not  
2 expected to cause clinical signs or symptoms before the age of  
3 majority.

4           Sec. 1183. Section 71-605, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           71-605 (1) The funeral director and embalmer in charge  
7 of the funeral of any person dying in the State of Nebraska  
8 shall cause a certificate of death to be filled out with all the  
9 particulars contained in the standard form adopted and promulgated  
10 by the department. Such standard form shall include a space for  
11 veteran status and the period of service in the armed forces of  
12 the United States and a statement of the cause of death made by  
13 a person holding a valid license as a physician who last attended  
14 the deceased. The standard form shall also include the deceased's  
15 social security number. Death and fetal death certificates shall  
16 be completed by the funeral directors and embalmers and physicians  
17 for the purpose of filing with the department and providing child  
18 support enforcement information pursuant to section 43-3340.

19           (2) The physician shall have the responsibility and duty  
20 to complete and sign in his or her own handwriting or by electronic  
21 means pursuant to section 71-603.01, within twenty-four hours from  
22 the time of death, that part of the certificate of death entitled  
23 medical certificate of death. In the case of a death when no person  
24 licensed as a physician was in attendance, the funeral director  
25 and embalmer shall refer the case to the county attorney who shall

1 have the responsibility and duty to complete and sign the death  
2 certificate in his or her own handwriting or by electronic means  
3 pursuant to section 71-603.01.

4           No cause of death shall be certified in the case of  
5 the sudden and unexpected death of a child between the ages of  
6 one week and three years until an autopsy is performed at county  
7 expense by a qualified pathologist pursuant to section 23-1824. The  
8 parents or guardian shall be notified of the results of the autopsy  
9 by their physician, community health official, or county coroner  
10 within forty-eight hours. The term sudden infant death syndrome  
11 shall be entered on the death certificate as the principal cause of  
12 death when the term is appropriately descriptive of the pathology  
13 findings and circumstances surrounding the death of a child.

14           If the circumstances show it possible that death was  
15 caused by neglect, violence, or any unlawful means, the case  
16 shall be referred to the county attorney for investigation and  
17 certification. The county attorney shall, within twenty-four hours  
18 after taking charge of the case, state the cause of death as  
19 ascertained, giving as far as possible the means or instrument  
20 which produced the death. All death certificates shall show clearly  
21 the cause, disease, or sequence of causes ending in death. If  
22 the cause of death cannot be determined within the period of time  
23 stated above, the death certificate shall be filed to establish  
24 the fact of death. As soon as possible thereafter, and not more  
25 than six weeks later, supplemental information as to the cause,

1 disease, or sequence of causes ending in death shall be filed with  
2 the department to complete the record. For all certificates stated  
3 in terms that are indefinite, insufficient, or unsatisfactory for  
4 classification, inquiry shall be made to the person completing  
5 the certificate to secure the necessary information to correct or  
6 complete the record.

7 (3) A completed death certificate shall be filed with the  
8 department within five business days after the date of death. If  
9 it is impossible to complete the certificate of death within five  
10 business days, the funeral director and embalmer shall notify the  
11 department of the reason for the delay and file the certificate as  
12 soon as possible.

13 (4) Before any dead human body may be cremated, a  
14 cremation permit shall first be signed by the county attorney, or  
15 by his or her authorized representative as designated by the county  
16 attorney in writing, of the county in which the death occurred on a  
17 form prescribed and furnished by the department.

18 (5) A permit for disinterment shall be required prior to  
19 disinterment of a dead human body. The permit shall be issued by  
20 the department to a licensed funeral director and embalmer upon  
21 proper application. The request for disinterment shall be made by  
22 the next of kin of the deceased, as listed in section ~~71-1339,~~  
23 561 of this act, or a county attorney on a form furnished by the  
24 department. The application shall be signed by the funeral director  
25 and embalmer who will be directly supervising the disinterment.

1 When the disinterment occurs, the funeral director and embalmer  
2 shall sign the permit giving the date of disinterment and file the  
3 permit with the department within ten days of the disinterment.

4 (6) When a request is made under subsection (5) of this  
5 section for the disinterment of more than one dead human body, an  
6 order from a court of competent jurisdiction shall be submitted to  
7 the department prior to the issuance of a permit for disinterment.  
8 The order shall include, but not be limited to, the number of  
9 bodies to be disinterred if that number can be ascertained, the  
10 method and details of transportation of the disinterred bodies,  
11 the place of reinterment, and the reason for disinterment. No  
12 sexton or other person in charge of a cemetery shall allow the  
13 disinterment of a body without first receiving from the department  
14 a disinterment permit properly completed.

15 (7) No dead human body shall be removed from the  
16 state for final disposition without a transit permit issued by  
17 the funeral director and embalmer having charge of the body in  
18 Nebraska, except that when the death is subject to investigation,  
19 the transit permit shall not be issued by the funeral director and  
20 embalmer without authorization of the county attorney of the county  
21 in which the death occurred. No agent of any transportation company  
22 shall allow the shipment of any body without the properly completed  
23 transit permit prepared in duplicate.

24 (8) The interment, disinterment, or reinterment of a  
25 dead human body shall be performed under the direct supervision



1 of a licensed funeral director and embalmer, except that hospital  
2 disposition may be made of the remains of a child born dead  
3 pursuant to section 71-20,121.

4 (9) All transit permits issued in accordance with the  
5 law of the place where the death occurred in a state other than  
6 Nebraska shall be signed by the funeral director and embalmer  
7 in charge of burial and forwarded to the department within five  
8 business days after the interment takes place.

9 Sec. 1184. Section 71-906, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 71-906 Mental health professional means a person licensed  
12 to practice medicine and surgery or psychology in this state under  
13 the Uniform ~~Licensing Law~~ Credentialing Act or an advanced practice  
14 registered nurse licensed under the Advanced Practice Registered  
15 Nurse Practice Act who has proof of current certification in a  
16 psychiatric or mental health specialty.

17 Sec. 1185. Section 71-1356, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-1356 For purposes of the Cremation of Human Remains  
20 Act, unless the context otherwise requires:

21 (1) Alternative container means a container in which  
22 human remains are placed in a cremation chamber for cremation;

23 (2) Authorizing agent means a person vested with the  
24 right to control the disposition of human remains pursuant to  
25 section ~~71-1339,~~ 561 of this act;

1           (3) Casket means a rigid container made of wood, metal,  
2 or other similar material, ornamented and lined with fabric, which  
3 is designed for the encasement of human remains;

4           (4) Cremated remains means the residue of human  
5 remains recovered after cremation and the processing of such  
6 remains by pulverization, leaving only bone fragments reduced to  
7 unidentifiable dimensions, and the unrecoverable residue of any  
8 foreign matter, such as eyeglasses, bridgework, or other similar  
9 material, that was cremated with the human remains;

10          (5) Cremated remains receipt form means a form provided  
11 by a crematory authority to an authorizing agent or his or her  
12 representative that identifies cremated remains and the person  
13 authorized to receive such remains;

14          (6) Cremation means the technical process that uses heat  
15 and evaporation to reduce human remains to bone fragments;

16          (7) Cremation chamber means the enclosed space within  
17 which a cremation takes place;

18          (8) Crematory means a building or portion of a building  
19 which contains a cremation chamber and holding facility;

20          (9) Crematory authority means the legal entity subject to  
21 licensure by the department to maintain and operate a crematory and  
22 perform cremation;

23          (10) Crematory operator means a person who is responsible  
24 for the operation of a crematory;

25          (11) Delivery receipt form means a form provided by a

1 funeral establishment to a crematory authority to document the  
2 receipt of human remains by such authority for the purpose of  
3 cremation;

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

6 (13) Director means the Director of Regulation and  
7 Licensure;

8 (14) Funeral director has the same meaning as in section  
9 71-507;

10 (15) Funeral establishment has the same meaning as in  
11 section ~~71-1301~~, 547 of this act;

12 (16) Holding facility means the area of a crematory  
13 designated for the retention of human remains prior to cremation  
14 and includes a refrigerated facility;

15 (17) Human remains means the body of a deceased person,  
16 or a human body part, in any stage of decomposition and includes  
17 limbs or other portions of the anatomy that are removed from a  
18 person or human remains for medical purposes during treatment,  
19 surgery, biopsy, autopsy, or medical research;

20 (18) Permanent container means a receptacle made of  
21 durable material for the long-term placement of cremated remains;  
22 and

23 (19) Temporary container means a receptacle made of  
24 cardboard, plastic, or other similar material in which cremated  
25 remains are placed prior to the placement of such remains in an urn

1 or other permanent container.

2           Sec. 1186. Section 71-1357, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-1357 A crematory shall not be established, operated,  
5 or maintained in this state except by a crematory authority  
6 licensed by the department under the Cremation of Human Remains  
7 Act. The department shall issue a license to a crematory authority  
8 that satisfies the requirements for licensure under the act. Human  
9 remains shall not be cremated in this state except at a crematory  
10 operated by a crematory authority licensed under the act. ~~Crematory~~  
11 ~~authorities operating crematories on August 31, 2003, which apply~~  
12 ~~for licensure within sixty days after August 31, 2003, shall be~~  
13 ~~presumed to meet requirements for initial or provisional licensure~~  
14 ~~under the act.~~

15           Sec. 1187. Section 71-1361, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-1361 (1) A crematory authority desiring to relocate a  
18 crematory shall file a written application with the department at  
19 least thirty days prior to the designated date of such relocation.  
20 The application shall be accompanied by a fee ~~of not less than~~  
21 ~~fifteen dollars and not more than one hundred fifty dollars,~~ as  
22 determined by the department in rules and regulations.

23           (2) A crematory authority desiring to change ownership of  
24 a crematory shall file a written application with the department at  
25 least thirty days prior to the designated date of such change. The

1 application shall be accompanied by a fee ~~of not less than fifteen~~  
2 ~~dollars and not more than one hundred fifty dollars,~~ as determined  
3 by the department in rules and regulations.

4 (3) A crematory authority desiring to change its name  
5 shall file a written application with the department at least  
6 thirty days prior to such change. The application shall be  
7 accompanied by a fee ~~of ten dollars,~~ determined by the department  
8 in rules and regulations.

9 Sec. 1188. Section 71-1363, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-1363 (1) The fee for an initial or renewal license as  
12 a crematory authority shall include a fee ~~of three hundred dollars,~~  
13 determined by the department in rules and regulations.

14 (2) If the license application is denied, the license fee  
15 shall be returned to the applicant, except that the department may  
16 retain up to twenty-five dollars as an administrative fee and may  
17 retain the entire license fee if an inspection has been completed  
18 prior to such denial.

19 (3) The department shall collect the same fee as provided  
20 in subsection (1) of this section for reinstatement of a license  
21 that has lapsed or has been suspended. The department shall collect  
22 a fee of ten dollars for a duplicate original license.

23 (4) The department shall collect a fee of twenty-five  
24 dollars for a certified statement that a crematory authority is  
25 licensed in this state and a fee of five dollars for verification

1 that a crematory authority is licensed in this state.

2 (5) The department shall adopt and promulgate rules and  
3 regulations for the establishment of fees under the Cremation of  
4 Human Remains Act.

5 (6) The department shall collect fees authorized under  
6 the act and shall remit such fees to the State Treasurer for credit  
7 to the Department of Health and Human Services Regulation and  
8 Licensure Cash Fund. Such fees shall only be used for activities  
9 related to the licensure of crematory authorities.

10 Sec. 1189. Section 71-1373, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-1373 The right to authorize the cremation of human  
13 remains and the final disposition of the cremated remains, except  
14 in the case of a minor subject to section 23-1824 and unless  
15 other directions have been given by the decedent in the form of a  
16 testamentary disposition or a pre-need contract, vests pursuant to  
17 section ~~71-1339~~. 561 of this act.

18 Sec. 1190. Section 71-17,102, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-17,102 For purposes of the Nursing Student Loan Act:

21 (1) Approved nursing program means a program offered by  
22 a public or private institution in this state (a) which consists  
23 of courses of instruction in regularly scheduled classes leading  
24 to a master of science degree, a bachelor of science degree,  
25 an associate degree, or a diploma in nursing or (b) for the

1 preparation for licensure as a licensed practical nurse available  
2 to regularly enrolled undergraduate or graduate students;

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

5 (3) Nontraditional student means a student who has not  
6 attended classes as a regular full-time student for at least three  
7 years; and

8 (4) Practice of nursing has the definition found in  
9 section ~~71-1,132.05~~. 766 of this act.

10 Sec. 1191. Section 71-17,113, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 71-17,113 Beginning January 1, 2006, through December 31,  
13 2007, the Department of Health and Human Services Regulation and  
14 Licensure shall charge a fee of one dollar, in addition to any  
15 other fee, for each license renewal for a registered nurse or  
16 licensed practical nurse pursuant to ~~section 71-1,132.20~~. the Nurse  
17 Practice Act. Such fee shall be collected at the time of renewal  
18 and remitted to the State Treasurer for credit to the Nursing  
19 Faculty Student Loan Cash Fund.

20 Sec. 1192. Section 71-2407, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-2407 (1) Any person operating a mail service pharmacy  
23 outside of the State of Nebraska shall obtain a mail service  
24 pharmacy license prior to shipping, mailing, or in any manner  
25 delivering dispensed prescription drugs as defined in section

1 ~~71-1,142~~ 937 of this act into the State of Nebraska.

2 (2) To be qualified to hold a mail service pharmacy  
3 license, a person shall:

4 (a) Hold a pharmacy license or permit issued by and valid  
5 in the state in which the person is located and from which such  
6 prescription drugs will be shipped, mailed, or otherwise delivered;

7 (b) Be located and operating in a state in which the  
8 requirements and qualifications for obtaining and maintaining a  
9 pharmacy license or permit are considered by the Department of  
10 Health and Human Services Regulation and Licensure, with the  
11 approval of the Board of Pharmacy, to be substantially equivalent  
12 to the requirements of the Health Care Facility Licensure Act;

13 (c) Designate the Secretary of State as his, her, or its  
14 agent for service of process in this state; and

15 (d) Employ on a full-time basis at least one pharmacist  
16 who holds a current unrestricted pharmacist license issued  
17 under the Uniform Licensing Law Credentialing Act who shall be  
18 responsible for compliance by the mail service pharmacy with the  
19 Mail Service Pharmacy Licensure Act. The mail service pharmacy  
20 shall notify the department when such pharmacist is no longer  
21 employed by such pharmacy.

22 (3) To obtain a mail service pharmacy license, a person  
23 shall:

24 (a) File an application on a form developed by the  
25 department; and



1 (b) Pay a fee equivalent to the fee for a pharmacy  
2 license in the State of Nebraska pursuant to section 71-434.

3 (4) This section does not apply to prescription drugs  
4 mailed, shipped, or otherwise delivered by a pharmaceutical company  
5 to a laboratory for the purpose of conducting clinical research.

6 Sec. 1193. Section 71-2411, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-2411 For purposes of the Emergency Box Drug Act:

9 (1) Authorized personnel shall mean any medical doctor,  
10 doctor of osteopathy, registered nurse, licensed practical nurse,  
11 pharmacist, or physician's assistant;

12 (2) Department shall mean the Department of Health and  
13 Human Services Regulation and Licensure;

14 (3) Drug shall mean any prescription drug or device or  
15 legend drug or device defined under section ~~71-1,142,~~ 937 of this  
16 act, any nonprescription drug as defined under section ~~71-1,142,~~  
17 925 of this act, any controlled substance as defined under section  
18 28-405, or any device as defined under section ~~71-1,142,~~ 910 of  
19 this act;

20 (4) Emergency box drugs shall mean drugs required to meet  
21 the immediate therapeutic needs of patients when the drugs are not  
22 available from any other authorized source in time to sufficiently  
23 prevent risk of harm to such patients by the delay resulting from  
24 obtaining such drugs from such other authorized source;

25 (5) Institution shall mean an intermediate care facility,

1 an intermediate care facility for the mentally retarded, a mental  
2 health center, a nursing facility, and a skilled nursing facility,  
3 as such terms are defined in sections 71-420, 71-421, 71-423,  
4 71-424, and 71-429;

5 (6) Institutional pharmacy shall mean the physical  
6 portion of an institution engaged in the compounding, dispensing,  
7 and labeling of drugs which is operating pursuant to a pharmacy  
8 license issued by the department under the Health Care Facility  
9 Licensure Act;

10 (7) Multiple dose vial shall mean any bottle in which  
11 more than one dose of a liquid drug is stored or contained; and

12 (8) Supplying pharmacist shall mean the pharmacist in  
13 charge of an institutional pharmacy or a pharmacist who provides  
14 emergency box drugs to an institution pursuant to the Emergency  
15 Box Drug Act. Supplying pharmacist shall not include any agent or  
16 employee of the supplying pharmacist who is not a pharmacist.

17 Sec. 1194. Section 71-2412, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-2412 (1) Each institutional pharmacy shall be directed  
20 by a pharmacist, referred to as the pharmacist in charge as defined  
21 in section ~~71-1,142,~~ 929 of this act, who is licensed to engage in  
22 the practice of pharmacy in this state.

23 (2) For an institution that does not have an  
24 institutional pharmacy or during such times as an institutional  
25 pharmacy may be unattended by a pharmacist, drugs may be

1 administered to residents of the institution by authorized  
2 personnel of the institution from the contents of emergency boxes  
3 located within such facility if such drugs and boxes meet all of  
4 the following requirements:

5 (a) All emergency box drugs shall be provided by and  
6 all emergency boxes containing such drugs shall be sealed by a  
7 supplying pharmacist with the seal on such emergency box to be  
8 of such a nature that it can be easily identified if it has been  
9 broken;

10 (b) Emergency boxes shall be stored in a medication room  
11 or other secured area within the institution. Only the supplying  
12 pharmacist or authorized personnel of the institution shall obtain  
13 access to such room or secured area, by key or combination,  
14 in order to prevent unauthorized access and to ensure a proper  
15 environment for preservation of the emergency box drugs;

16 (c) The exterior of each emergency box shall be labeled  
17 so as to clearly indicate that it is an emergency box for use  
18 in emergencies only. The label shall contain a listing of the  
19 drugs contained in the box, including the name, strength, route of  
20 administration, quantity, and expiration date of each drug, and the  
21 name, address, and telephone number of the supplying pharmacist;

22 (d) The expiration date of an emergency box shall be the  
23 earliest date of expiration of any drug contained in the box;

24 (e) All emergency boxes shall be inspected by the  
25 supplying pharmacist or another pharmacist designated by the

1 supplying pharmacist at least once every thirty days to determine  
2 the expiration date and quantity of the drugs in the box. Every  
3 inspection shall be documented and the record retained by the  
4 institution for a period of two years;

5 (f) An emergency box shall not contain any multiple  
6 dose vials and shall not contain more than ten drugs which are  
7 controlled substances; and

8 (g) All drugs in emergency boxes shall be in the  
9 original manufacturer's containers or shall be repackaged by the  
10 supplying pharmacist and shall include the manufacturer's name,  
11 lot number, drug name, strength, dosage form, NDC number, route  
12 of administration, and expiration date on a typewritten label. Any  
13 drug which is repackaged shall contain on the label the calculated  
14 expiration date. For purposes of the Emergency Box Drug Act,  
15 calculated expiration date has the same meaning as in subdivision  
16 (7) (b) of section ~~71-1,147.53.~~ 980 of this act.

17 Sec. 1195. Section 71-2418, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-2418 (1) The Legislature finds that many controlled  
20 substances have useful and legitimate medical and scientific  
21 purposes and are necessary to maintain the health and general  
22 welfare of the people of Nebraska. Principles of quality medical  
23 practice dictate that the people of Nebraska have access to  
24 appropriate and effective pain relief.

25 (2) The Legislature finds that the appropriate

1 application of up-to-date knowledge and treatment modalities can  
2 serve to improve the quality of life for those patients who suffer  
3 from pain. The Legislature therefor encourages physicians to view  
4 effective pain management as a part of quality medical practice for  
5 all patients with pain, acute or chronic, including those patients  
6 who experience pain as a result of terminal illness.

7 (3) The Legislature finds that a physician should be able  
8 to prescribe, dispense, or administer a controlled substance in  
9 excess of the recommended dosage for the treatment of pain so long  
10 as such dosage is not administered for the purpose of causing, or  
11 the purpose of assisting in causing, death for any reason and so  
12 long as it conforms to policies and guidelines for the treatment of  
13 pain adopted by the Board of ~~Examiners in~~ Medicine and Surgery.

14 (4) The Legislature finds that a health care facility,  
15 hospice, or third-party payor should not forbid or restrict the  
16 use of controlled substances appropriately administered for the  
17 treatment of pain.

18 Sec. 1196. Section 71-2419, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-2419 A physician licensed under the ~~Uniform Licensing~~  
21 ~~Law~~ Medicine and Surgery Practice Act who prescribes, dispenses,  
22 or administers or a nurse licensed under the Nurse Practice Act  
23 or pharmacist licensed under the ~~Uniform Licensing Law~~ Pharmacy  
24 Practice Act who administers or dispenses a controlled substance  
25 in excess of the recommended dosage for the treatment of pain

1 shall not be subject to discipline under ~~sections 71-147 to~~  
2 ~~71-161.20 or 71-1,142 to 71-1,151 or under the Nurse Practice~~  
3 the Uniform Credentialing Act or criminal prosecution under the  
4 Uniform Controlled Substances Act when: (1) In the judgment of  
5 the physician, appropriate pain management warrants such dosage;  
6 (2) the controlled substance is not administered for the purpose  
7 of causing, or the purpose of assisting in causing, death for  
8 any reason; and (3) the administration of the controlled substance  
9 conforms to policies and guidelines for the treatment of pain  
10 adopted by the Board of ~~Examiners in~~ Medicine and Surgery.

11           Sec. 1197. Section 71-2420, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-2420 The Board of ~~Examiners in~~ Medicine and Surgery  
14 shall adopt policies and guidelines for the treatment of pain  
15 to ensure that physicians who are engaged in the appropriate  
16 treatment of pain are not subject to disciplinary action, and the  
17 board shall consider policies and guidelines developed by national  
18 organizations with expertise in pain management for this purpose.

19           Sec. 1198. Section 71-2421, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-2421 (1) To protect the public safety, dispensed drugs  
22 or devices may be returned to the dispensing pharmacy only under  
23 the following conditions:

24           (a) For immediate destruction by a pharmacist, except  
25 that drugs and devices dispensed to residents of a long-term care

1 facility shall be destroyed on the site of the long-term care  
2 facility;

3 (b) In response to a recall by the manufacturer,  
4 packager, or distributor;

5 (c) If a device is defective or malfunctioning; or

6 (d) Return from a long-term care facility for credit,  
7 except that:

8 (i) No controlled substance may be returned;

9 (ii) The decision to accept the return of the dispensed  
10 drug or device shall rest solely with the pharmacist;

11 (iii) The dispensed drug or device shall have been in the  
12 control of the long-term care facility at all times;

13 (iv) The dispensed drug or device shall be in the  
14 original and unopened labeled container with a tamper-evident seal  
15 intact, as dispensed by the pharmacy. Such container shall bear the  
16 expiration date or calculated expiration date and lot number; and

17 (v) Tablets or capsules shall have been dispensed in a  
18 unit dose with a tamper-evident container which is impermeable to  
19 moisture and approved by the Board of Pharmacy.

20 (2) Returned dispensed drugs or devices shall not be  
21 retained in inventory nor made available for subsequent dispensing,  
22 except as provided in subdivision (1) (d) of this section.

23 (3) For purposes of this section:

24 (a) Calculated expiration date means an expiration date  
25 on the prepackaged product which is not greater than twenty-five

1 percent of the time between the date of repackaging and the  
2 expiration date of the bulk container nor greater than six months  
3 from the date of repackaging; and

4 (b) Dispense, drugs, and devices are defined in ~~section~~  
5 ~~71-1,142.~~ the Pharmacy Practice Act.

6 Sec. 1199. Section 71-2423, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 71-2423 For purposes of the Cancer Drug Repository  
9 Program Act:

10 (1) Cancer drug means a prescription drug used to treat  
11 (a) cancer or its side effects or (b) the side effects of a  
12 prescription drug used to treat cancer or its side effects;

13 (2) Department means the Department of Health and Human  
14 Services Regulation and Licensure;

15 (3) Health care facility has the definition found in  
16 section 71-413;

17 (4) Health clinic has the definition found in section  
18 71-416;

19 (5) Hospital has the definition found in section 71-419;

20 (6) Participant means a physician's office, pharmacy,  
21 hospital, or health clinic that has elected to voluntarily  
22 participate in the program and that accepts donated cancer drugs  
23 under the rules and regulations adopted and promulgated by the  
24 department for the program;

25 (7) Pharmacy has the definition found in section 71-425;



1           (8) Physician's office means the office of a person  
2 licensed to practice medicine and surgery or osteopathic medicine  
3 and surgery;

4           (9) Prescribing practitioner means a health care  
5 practitioner licensed under the Uniform ~~Licensing Law~~ Credentialing  
6 Act who is authorized to prescribe cancer drugs;

7           (10) Prescription drug has the definition found in  
8 section ~~71-1,142,~~ 937 of this act; and

9           (11) Program means the cancer drug repository program  
10 established pursuant to section 71-2424.

11           Sec. 1200. Section 71-2431, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           71-2431 (1) Prescription drugs or devices which have been  
14 delivered to a community health center for dispensing to a patient  
15 of such health center pursuant to a valid prescription, but which  
16 are not dispensed or administered to such patient, may be delivered  
17 to a pharmacist or pharmacy under contract with the community  
18 health center for relabeling and redispensing to another patient of  
19 such health center pursuant to a valid prescription, ~~except that:~~  
20 under the following conditions:

21           (a) The decision to accept delivery of the drug or  
22 device for relabeling and redispensing shall rest solely with the  
23 contracting pharmacist or pharmacy;

24           (b) The drug or device shall have been in the control of  
25 the community health center at all times;

1           (c) The drug or device shall be in the original and  
2 unopened labeled container with a tamper-evident seal intact. Such  
3 container shall bear the expiration date or calculated expiration  
4 date and lot number; and

5           (d) The relabeling and redispensing is not otherwise  
6 prohibited by law.

7           (2) For purposes of this section:

8           (a) Administer has the definition found in section  
9 ~~71-1,142,~~ 902 of this act;

10           (b) Calculated expiration date has the definition found  
11 in section ~~71-1,147.53,~~ 980 of this act;

12           (c) Community health center means a community health  
13 center established pursuant to the Health Centers Consolidation Act  
14 of 1996, 42 U.S.C. 201 et seq., as such act existed on May 7, 2005;

15           (d) Deliver or delivery has the definition found in  
16 section ~~71-1,142,~~ 909 of this act;

17           (e) Dispense or dispensing has the definition found in  
18 section ~~71-1,142,~~ 913 of this act;

19           (f) Prescription has the definition found in section  
20 ~~71-1,142,~~ 936 of this act; and

21           (g) Prescription drug or device has the definition found  
22 in section ~~71-1,142.~~ 937 of this act.

23           (3) The Department of Health and Human Services  
24 Regulation and Licensure, in consultation with the Board of  
25 Pharmacy, may adopt and promulgate rules and regulations to carry

1 out this section.

2 Sec. 1201. Section 71-2437, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4 71-2437 For purposes of the Immunosuppressant Drug  
5 Repository Program Act:

6 (1) Department means the Department of Health and Human  
7 Services Regulation and Licensure;

8 (2) Immunosuppressant drug means anti-rejection drugs  
9 that are used to reduce the body's immune system response to  
10 foreign material and inhibit a transplant recipient's immune system  
11 from rejecting a transplanted organ. Immunosuppressant drugs are  
12 available only as prescription drugs and come in tablet, capsule,  
13 and liquid forms. The recommended dosage depends on the type  
14 and form of immunosuppressant drug and the purpose for which  
15 it is being used. Immunosuppressant drug does not include drugs  
16 prescribed for inpatient use;

17 (3) Participant means a transplant center that has  
18 elected to voluntarily participate in the program, that has  
19 submitted written notification to the department of its intent  
20 to participate in the program, and that accepts donated  
21 immunosuppressant drugs under the rules and regulations adopted and  
22 promulgated by the department for the program;

23 (4) Prescribing practitioner means a health care  
24 practitioner licensed under the Uniform Licensing Law who is  
25 authorized to prescribe immunosuppressant drugs;

1 (5) Prescription drug has the definition found in section  
2 ~~71-1,142,~~ 937 of this act;

3 (6) Program means the immunosuppressant drug repository  
4 program established pursuant to section 71-2438;

5 (7) Transplant center means a hospital that operates  
6 an organ transplant program, including qualifying patients for  
7 transplant, registering patients on the national waiting list,  
8 performing transplant surgery, and providing care before and after  
9 transplant; and

10 (8) Transplant program means the organ-specific facility  
11 within a transplant center. A transplant center may have transplant  
12 programs for the transplantation of hearts, lungs, livers, kidneys,  
13 pancreata, or intestines.

14 Sec. 1202. Section 71-2505, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-2505 The provisions of sections 71-2503 and 71-2504  
17 shall not apply to the dispensing of poisons or preparation of  
18 medicines by those practitioners ~~of the healing arts named in~~  
19 ~~section 71-102,~~ credentialed under the Uniform Credentialing Act  
20 who are duly authorized by law to administer or professionally use  
21 those poisons specifically named in section 71-2501.

22 Sec. 1203. Section 71-2509, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-2509 The Director of Regulation and Licensure may, by  
25 regulation, whenever in his or her opinion such action becomes

1 necessary for the protection of the public, prohibit the sale of  
2 any poison, subject to the provisions of this section, except upon  
3 the original written order or prescription of those practitioners  
4 ~~of the healing arts, named in section 71-102,~~ credentialed under  
5 the Uniform Credentialing Act who are duly authorized by law to  
6 administer or professionally use those poisons specifically named  
7 in section 71-2501. Whenever in the opinion of the director it is  
8 in the interest of the public health, he or she is empowered to  
9 adopt rules and regulations, not inconsistent with ~~the provisions~~  
10 ~~of~~ sections 71-2501 to 71-2511, further restricting or prohibiting  
11 the retail sale of any poison. The rules and regulations must  
12 be applicable to all persons alike, and it shall be the duty of  
13 the director, upon request, to furnish any person, authorized by  
14 sections 71-2501 to 71-2511 to sell or dispense any poisons, with a  
15 list of all articles, preparations, and compounds the sale of which  
16 is prohibited or regulated by ~~said~~ such sections.

17           Sec. 1204. Section 71-2510, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-2510 The provisions of sections 71-2502 to 71-2511  
20 shall not apply to sales of poisons made to those practitioners  
21 ~~of the healing arts, named in section 71-102,~~ credentialed under  
22 the Uniform Credentialing Act who are duly authorized by law to  
23 administer or professionally use those poisons specifically named  
24 in section 71-2501, to sales made by any manufacturer, wholesale  
25 dealer, or licensed pharmacist to another manufacturer, wholesale

1 dealer, or licensed pharmacist, to a hospital, college, school,  
2 or scientific or public institution, or to any person using any  
3 of such poisons in the arts or for industrial, manufacturing, or  
4 agricultural purposes and believed to be purchasing any poison for  
5 legitimate use, or to the sales of pesticides used in agricultural  
6 and industrial arts or products used for the control of insect  
7 or animal pests or weeds or fungus diseases, if in all such  
8 cases, except sales for use in industrial arts, manufacturing,  
9 or processing, the poisons are labeled in accordance with the  
10 provisions of section 71-2502.

11           Sec. 1205. Section 71-2610.01, Revised Statutes  
12 Cumulative Supplement, 2006, is amended to read:

13           71-2610.01 The State Board of Health shall:

14           (1) Adopt and promulgate rules and regulations for the  
15 government of the professions and occupations licensed, certified,  
16 registered, or issued permits by the Department of Health and Human  
17 Services Regulation and Licensure, including rules and regulations  
18 necessary to implement laws enforced by the department. These  
19 professions and occupations are those subject to the ~~Advanced~~  
20 ~~Practice Registered Nurse Licensure Act,~~ the Asbestos Control Act,  
21 ~~the Certified Registered Nurse Anesthetist Act,~~ the Clinical Nurse  
22 ~~Specialist Practice Act,~~ the Licensed Practical Nurse-Certified  
23 ~~Act,~~ the Nebraska Certified Nurse Midwifery Practice Act, the  
24 Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse  
25 Practitioner Act, the Occupational Therapy Practice Act, the

1 Radiation Control Act, the Residential Lead-Based Paint Professions  
2 ~~Certification Practice Act~~, the Uniform Controlled Substances Act,  
3 the Uniform ~~Licensing Law~~, Credentialing Act, or the Wholesale  
4 Drug Distributor Licensing Act; ~~or sections 71-102, 71-3702 to~~  
5 ~~71-3715, 71-4701 to 71-4719, and 71-6053 to 71-6068;~~

6 (2) Serve in an advisory capacity for other rules and  
7 regulations adopted and promulgated by the department, including  
8 those for health care facilities and environmental health services;

9 (3) Carry out its powers and duties under the Nebraska  
10 Regulation of Health Professions Act;

11 (4) Appoint and remove for cause members of  
12 health-related professional boards as provided in sections  
13 ~~71-111, 71-112, and 71-118;~~ 58 to 67 of this act;

14 (5) At the discretion of the board, help mediate issues  
15 related to the regulation of health care professions except issues  
16 related to the discipline of health care professionals; and

17 (6) Have the authority to participate in the periodic  
18 review of the regulation of health care professions.

19 All funds rendered available by law may be used by the  
20 board in administering and effecting such purposes.

21 Sec. 1206. Section 71-3501, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-3501 It is the policy of the State of Nebraska in  
24 furtherance of its responsibility to protect occupational and  
25 public health and safety and the environment:

1           (1) To institute and maintain a regulatory program for  
2 sources of radiation so as to provide for:

3           (a) Compatibility and equivalency with the standards and  
4 regulatory programs of the federal government;

5           (b) A single effective system of regulation within the  
6 state; and

7           (c) A system consonant insofar as possible with those of  
8 other states;

9           (2) To institute and maintain a program to permit  
10 development and utilization of sources of radiation for peaceful  
11 purposes consistent with the protection of occupational and public  
12 health and safety and the environment;

13           ~~(3) To maximize the protection practicable for the~~  
14 ~~citizens of Nebraska from ionizing radiation by establishing~~  
15 ~~requirements for appropriate qualifications of persons practicing~~  
16 ~~medical radiography;~~

17           ~~(4)~~ (3) To provide for the availability of capacity  
18 either within or outside the state for the management of  
19 low-level radioactive waste generated within the state, except for  
20 waste generated as a result of defense or federal research and  
21 development activities, and to recognize that such radioactive  
22 waste can be most safely and efficiently managed on a regional  
23 basis; and

24           ~~(5)~~ (4) To maximize the protection practicable for  
25 the citizens of Nebraska from radon or its decay products by



1 establishing requirements for (a) appropriate qualifications for  
2 persons providing measurement and mitigation services of radon or  
3 its decay products and (b) radon mitigation system installations.

4 Sec. 1207. Section 71-3502, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-3502 It is the purpose of the Radiation Control Act to  
7 effectuate the policies set forth in section 71-3501 by providing  
8 for:

9 (1) A program of effective regulation of sources of  
10 radiation for the protection of occupational and public health and  
11 safety and the environment;

12 (2) A program to promote an orderly regulatory pattern  
13 within the state, among the states, and between the federal  
14 government and the state and facilitate intergovernmental  
15 cooperation with respect to use and regulation of sources of  
16 radiation to the end that duplication of regulation may be  
17 minimized;

18 (3) A program to establish procedures for assumption and  
19 performance of certain regulatory responsibilities with respect to  
20 sources of radiation; and

21 (4) A program to permit maximum utilization of sources of  
22 radiation consistent with the health and safety of the public. ;  
23 and

24 ~~(5) A program which establishes requirements and~~  
25 ~~standards for appropriate education, training, and testing of~~

1 ~~persons practicing medical radiography.~~

2           Sec. 1208. Section 71-3503, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           71-3503 For purposes of the Radiation Control Act, unless  
5 the context otherwise requires:

6           (1) Radiation means ionizing radiation and nonionizing  
7 radiation as follows:

8           (a) Ionizing radiation means gamma rays, X-rays, alpha  
9 and beta particles, high-speed electrons, neutrons, protons, and  
10 other atomic or nuclear particles or rays but does not include  
11 sound or radio waves or visible, infrared, or ultraviolet light;  
12 and

13           (b) Nonionizing radiation means (i) any electromagnetic  
14 radiation which can be generated during the operations of  
15 electronic products to such energy density levels as to present  
16 a biological hazard to occupational and public health and safety  
17 and the environment, other than ionizing electromagnetic radiation,  
18 and (ii) any sonic, ultrasonic, or infrasonic waves which are  
19 emitted from an electronic product as a result of the operation of  
20 an electronic circuit in such product and to such energy density  
21 levels as to present a biological hazard to occupational and public  
22 health and safety and the environment;

23           (2) Radioactive material means any material, whether  
24 solid, liquid, or gas, which emits ionizing radiation  
25 spontaneously. Radioactive material includes, but is not

1 limited to, accelerator-produced material, byproduct material,  
2 naturally occurring material, source material, and special nuclear  
3 material;

4 (3) Radiation-generating equipment means any manufactured  
5 product or device, component part of such a product or device,  
6 or machine or system which during operation can generate or emit  
7 radiation except devices which emit radiation only from radioactive  
8 material;

9 (4) Sources of radiation means any radioactive material,  
10 any radiation-generating equipment, or any device or equipment  
11 emitting or capable of emitting radiation or radioactive material;

12 (5) Undesirable radiation means radiation in such  
13 quantity and under such circumstances as determined from time  
14 to time by rules and regulations adopted and promulgated by the  
15 department;

16 (6) Person means any individual, corporation,  
17 partnership, limited liability company, firm, association,  
18 trust, estate, public or private institution, group, agency,  
19 political subdivision of this state, any other state or  
20 political subdivision or agency thereof, and any legal successor,  
21 representative, agent, or agency of the foregoing;

22 (7) Registration means registration with the department  
23 pursuant to the Radiation Control Act;

24 (8) Department means the Department of Health and Human  
25 Services Regulation and Licensure;

1           (9) Coordinator means the Director of Regulation and  
2 Licensure;

3           (10) Electronic product means any manufactured product,  
4 device, assembly, or assemblies of such products or devices which,  
5 during operation in an electronic circuit, can generate or emit a  
6 physical field of radiation;

7           (11) License means:

8           (a) A general license issued pursuant to rules and  
9 regulations adopted and promulgated by the department without the  
10 filing of an application with the department or the issuance of  
11 licensing documents to particular persons to transfer, acquire,  
12 own, possess, or use quantities of or devices or equipment  
13 utilizing radioactive materials;

14           (b) A specific license, issued to a named person upon  
15 application filed with the department pursuant to the Radiation  
16 Control Act and rules and regulations adopted and promulgated  
17 pursuant to the act, to use, manufacture, produce, transfer,  
18 receive, acquire, own, or possess quantities of or devices or  
19 equipment utilizing radioactive materials; or

20           (c) A license issued to a radon measurement specialist,  
21 radon measurement technician, radon mitigation specialist, radon  
22 mitigation technician, radon measurement business, or radon  
23 mitigation business; ~~or~~

24           ~~(d) A license issued to a medical radiographer or limited~~  
25 ~~radiographer;~~

1 (12) Byproduct material means:

2 (a) Any radioactive material, except special nuclear  
3 material, yielded in or made radioactive by exposure to the  
4 radiation incident to the process of producing or utilizing special  
5 nuclear material; and

6 (b) The tailings or wastes produced by the extraction  
7 or concentration of uranium or thorium from any ore processed  
8 primarily for its source material content, including discrete  
9 surface wastes resulting from uranium or thorium solution  
10 extraction processes. Underground ore bodies depleted by such  
11 solution extraction operations do not constitute byproduct  
12 material;

13 (13) Source material means:

14 (a) Uranium or thorium or any combination thereof in any  
15 physical or chemical form; or

16 (b) Ores which contain by weight one-twentieth of one  
17 percent or more of uranium, thorium, or any combination thereof.  
18 Source material does not include special nuclear material;

19 (14) Special nuclear material means:

20 (a) Plutonium, uranium 233, or uranium enriched in the  
21 isotope 233 or in the isotope 235 and any other material that  
22 the United States Nuclear Regulatory Commission pursuant to the  
23 provisions of section 51 of the federal Atomic Energy Act of 1954,  
24 as amended, determines to be special nuclear material but does not  
25 include source material; or

1           (b) Any material artificially enriched by any material  
2 listed in subdivision (14)(a) of this section but does not include  
3 source material;

4           (15) Users of sources of radiation means:

5           (a) Physicians using radioactive material or  
6 radiation-generating equipment for human use;

7           (b) Natural persons using radioactive material or  
8 radiation-generating equipment for education, research, or  
9 development purposes;

10          (c) Natural persons using radioactive material or  
11 radiation-generating equipment for manufacture or distribution  
12 purposes;

13          (d) Natural persons using radioactive material or  
14 radiation-generating equipment for industrial purposes; and

15          (e) Natural persons using radioactive material or  
16 radiation-generating equipment for any other similar purpose;

17          (16) Civil penalty means any monetary penalty levied on  
18 a licensee or registrant because of violations of statutes, rules,  
19 regulations, licenses, or registration certificates but does not  
20 include criminal penalties;

21          (17) Closure means all activities performed at a waste  
22 handling, processing, management, or disposal site, such as  
23 stabilization and contouring, to assure that the site is in a  
24 stable condition so that only minor custodial care, surveillance,  
25 and monitoring are necessary at the site following termination of

1 licensed operation;

2 (18) Decommissioning means final operational activities  
3 at a facility to dismantle site structures, to decontaminate  
4 site surfaces and remaining structures, to stabilize and contain  
5 residual radioactive material, and to carry out any other  
6 activities to prepare the site for postoperational care;

7 (19) Disposal means the permanent isolation of low-level  
8 radioactive waste pursuant to the Radiation Control Act and rules  
9 and regulations adopted and promulgated pursuant to such act;

10 (20) Generate means to produce low-level radioactive  
11 waste when used in relation to low-level radioactive waste;

12 (21) High-level radioactive waste means:

13 (a) Irradiated reactor fuel;

14 (b) Liquid wastes resulting from the operation of the  
15 first cycle solvent extraction system or equivalent and the  
16 concentrated wastes from subsequent extraction cycles or the  
17 equivalent in a facility for reprocessing irradiated reactor fuel;  
18 and

19 (c) Solids into which such liquid wastes have been  
20 converted;

21 (22) Low-level radioactive waste means radioactive waste  
22 not defined as high-level radioactive waste, spent nuclear fuel,  
23 or byproduct material as defined in subdivision (12)(b) of this  
24 section;

25 (23) Management of low-level radioactive waste means the

1 handling, processing, storage, reduction in volume, disposal, or  
2 isolation of such waste from the biosphere in any manner;

3 (24) Source material mill tailings or mill tailings means  
4 the tailings or wastes produced by the extraction or concentration  
5 of uranium or thorium from any ore processed primarily for  
6 its source material content, including discrete surface wastes  
7 resulting from underground solution extraction processes, but  
8 not including underground ore bodies depleted by such solution  
9 extraction processes;

10 (25) Source material milling means any processing of ore,  
11 including underground solution extraction of unmined ore, primarily  
12 for the purpose of extracting or concentrating uranium or thorium  
13 therefrom and which results in the production of source material  
14 and source material mill tailings;

15 (26) Spent nuclear fuel means irradiated nuclear fuel  
16 that has undergone at least one year of decay since being used as  
17 a source of energy in a power reactor. Spent nuclear fuel includes  
18 the special nuclear material, byproduct material, source material,  
19 and other radioactive material associated with fuel assemblies;

20 (27) Transuranic waste means radioactive waste material  
21 containing alpha-emitting radioactive elements, with radioactive  
22 half-lives greater than five years, having an atomic number greater  
23 than 92 in concentrations in excess of one hundred nanocuries per  
24 gram;

25 (28) Licensed practitioner means a person licensed to



1 practice medicine, dentistry, podiatry, chiropractic, osteopathic  
2 medicine and surgery, or as an osteopathic physician;

3 (29) X-ray system means an assemblage of components for  
4 the controlled production of X-rays, including, but not limited to,  
5 an X-ray high-voltage generator, an X-ray control, a tube housing  
6 assembly, a beam-limiting device, and the necessary supporting  
7 structures. Additional components which function with the system  
8 are considered integral parts of the system;

9 ~~(30) Limited radiographer means a person licensed~~  
10 ~~to practice medical radiography pursuant to subsection (2) of~~  
11 ~~section 71-3515.01. Limited radiographer does not include a person~~  
12 ~~certified under section 71-176.01;~~

13 ~~(31) Medical radiographer means a person licensed to~~  
14 ~~practice medical radiography pursuant to subsection (1) of section~~  
15 ~~71-3515.01;~~

16 ~~(32) Medical radiography means the application of~~  
17 ~~radiation to humans for diagnostic purposes, including, but not~~  
18 ~~limited to, adjustment or manipulation of X-ray systems and~~  
19 ~~accessories including image receptors, positioning of patients,~~  
20 ~~processing of films, and any other action that materially affects~~  
21 ~~the radiation dose to patients;~~

22 ~~(33) (30) Licensed facility operator means any person or~~  
23 ~~entity who has obtained a license under the Low-Level Radioactive~~  
24 ~~Waste Disposal Act to operate a facility, including any person~~  
25 ~~or entity to whom an assignment of a license is approved by the~~

1 Department of Environmental Quality; and

2 ~~(34)~~ (31) Deliberate misconduct means an intentional act  
3 or omission by a person that (a) would intentionally cause a  
4 licensee, registrant, or applicant for a license or registration to  
5 be in violation of any rule, regulation, or order of or any term,  
6 condition, or limitation of any license or registration issued by  
7 the department under the Radiation Control Act or (b) constitutes  
8 an intentional violation of a requirement, procedure, instruction,  
9 contract, purchase order, or policy under the Radiation Control  
10 Act by a licensee, a registrant, an applicant for a license or  
11 registration, or a contractor or subcontractor of a licensee,  
12 registrant, or applicant for a license or registration.

13 Sec. 1209. Section 71-3505, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 71-3505 Matters relative to radiation as they relate to  
16 occupational and public health and safety and the environment shall  
17 be a responsibility of the department. The department shall:

18 (1) Develop comprehensive policies and programs for the  
19 evaluation and determination of undesirable radiation associated  
20 with the production, use, storage, or disposal of radiation sources  
21 and formulate, adopt, promulgate, and repeal rules and regulations  
22 which may provide (a) for registration or licensure under section  
23 71-3507 or 71-3509 and (b) for registration or licensure of (i)  
24 any other source of radiation, (ii) persons providing services  
25 for collection, detection, measurement, or monitoring of sources

1 of radiation, including, but not limited to, radon and its decay  
2 products, (iii) persons providing services to reduce the effects of  
3 sources of radiation, ~~(iv) persons practicing medical radiography,~~  
4 ~~and (v) and (iv)~~ persons practicing industrial radiography, as  
5 specified by rule or regulation so as to reasonably protect  
6 occupational and public health and safety and the environment  
7 in a manner compatible with regulatory programs of the federal  
8 government. The department for identical purposes may also adopt  
9 and promulgate rules and regulations for the issuance of licenses,  
10 either general or specific, to persons for the purpose of using,  
11 manufacturing, producing, transporting, transferring, receiving,  
12 acquiring, owning, or possessing any radioactive material. Such  
13 rules and regulations may prohibit the use of radiation for  
14 uses found by the department to be detrimental to occupational  
15 and public health or safety or the environment and shall carry  
16 out the purposes and policies set out in sections 71-3501  
17 and 71-3502. Such rules and regulations shall not prohibit  
18 or limit the kind or amount of radiation purposely prescribed  
19 for or administered to a patient by doctors of medicine and  
20 surgery, dentistry, osteopathic medicine, chiropractic, podiatry,  
21 and veterinary medicine, while engaged in the lawful practice of  
22 such profession, or administered by other professional personnel,  
23 such as allied health personnel, medical radiographers, limited  
24 radiographers, nurses, and laboratory workers, acting under the  
25 supervision of a licensed practitioner. Violation of rules and

1 regulations adopted and promulgated by the department pursuant to  
2 the Radiation Control Act shall be due cause for the suspension,  
3 revocation, or limitation of a license issued by the department.  
4 Any licensee may request a hearing before the department on the  
5 issue of such suspension, revocation, or limitation. Procedures for  
6 notice and opportunity for a hearing before the department shall be  
7 pursuant to the Administrative Procedure Act. The decision of the  
8 department may be appealed, and the appeal shall be in accordance  
9 with the Administrative Procedure Act;

10 (2) Have the authority to accept and administer loans,  
11 grants, or other funds or gifts, conditional or otherwise, in  
12 furtherance of its functions, from the federal government and from  
13 other sources, public or private;

14 (3) Encourage, participate in, or conduct studies,  
15 investigations, training, research, and demonstrations relating to  
16 the control of sources of radiation;

17 (4) Collect and disseminate health education information  
18 relating to radiation protection;

19 (5) Make its facilities available so that any person or  
20 any agency may request the department to review and comment on  
21 plans and specifications of installations submitted by the person  
22 or agency with respect to matters of protection and safety for the  
23 control of undesirable radiation;

24 (6) Be empowered to inspect radiation sources and their  
25 shieldings and surroundings for the determination of any possible

1 undesirable radiation or violations of rules and regulations  
2 adopted and promulgated by the department and provide the owner,  
3 user, or operator with a report of any known or suspected  
4 deficiencies; and

5 (7) Collect a fee for emergency response or environmental  
6 surveillance, or both, offsite from each nuclear power plant equal  
7 to the cost of completing the emergency response or environmental  
8 surveillance and any associated report. In no event shall the  
9 fee for any nuclear power plant exceed the lesser of the  
10 actual costs of such activities or fifty-three thousand dollars  
11 per annum. Commencing July 1, 1997, the accounting division  
12 of the Department of Administrative Services shall recommend an  
13 inflationary adjustment equivalent which shall be based upon the  
14 Consumer Price Index for All Urban Consumers of the United States  
15 Department of Labor, Bureau of Labor Statistics, and shall not  
16 exceed five percent per annum. Such adjustment shall be applied to  
17 the annual fee for nuclear power plants. The fee collected shall be  
18 credited to the Department of Health and Human Services Regulation  
19 and Licensure Cash Fund. This fee shall be used solely for the  
20 purpose of defraying the direct costs of the emergency response  
21 and environmental surveillance at Cooper Nuclear Station and Fort  
22 Calhoun Station conducted by the department. The department may  
23 charge additional fees when mutually agreed upon for services,  
24 training, or equipment that are a part of or in addition to matters  
25 in this section.

1                   Sec. 1210. Section 71-3507, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   71-3507 (1) The department shall adopt and promulgate  
4 rules and regulations for the issuance, amendment, suspension,  
5 and revocation of general and specific licenses. Such licenses  
6 shall be for byproduct material, source material, special nuclear  
7 material, and radioactive material not under the authority of the  
8 federal Nuclear Regulatory Commission and for devices or equipment  
9 utilizing such materials. The rules and regulations shall provide:

10                  (a) For written applications for a specific license  
11 which include the technical, financial, and other qualifications  
12 determined by the department to be reasonable and necessary  
13 to protect occupational and public health and safety and the  
14 environment;

15                  (b) For additional written statements and inspections, as  
16 required by the department, at any time after filing an application  
17 for a specific license and before the expiration of the license to  
18 determine whether the license should be issued, amended, suspended,  
19 or revoked;

20                  (c) That all applications and statements be signed by the  
21 applicant or licensee;

22                  (d) The form, terms, and conditions of general and  
23 specific licenses;

24                  (e) That no license or right to possess or utilize  
25 sources of radiation granted by a license shall be assigned or

1 in any manner disposed of without the written consent of the  
2 department; and

3 (f) That the terms and conditions of all licenses are  
4 subject to amendment by rules, regulations, or orders issued by the  
5 department.

6 (2) The department may require registration or licensing  
7 of radioactive material not enumerated in subsection (1) of this  
8 section in order to maintain compatibility and equivalency with  
9 the standards and regulatory programs of the federal government or  
10 to protect the occupational and public health and safety and the  
11 environment.

12 ~~(3)~~ (3) (a) The department shall require licensure of  
13 persons providing measurement and mitigation services of radon or  
14 its decay products in order to protect the occupational and public  
15 health and safety and the environment.

16 (b) The department shall adopt and promulgate rules  
17 and regulations establishing education, experience, training,  
18 examination, and continuing competency requirements for radon  
19 measurement specialists, radon measurement technicians, radon  
20 mitigation specialists, and radon mitigation technicians.  
21 Application for such licenses shall be made as provided in the  
22 Uniform Credentialing Act. Such persons shall be credentialed in  
23 the same manner as an individual under subsection (1) of section 21  
24 of this act and shall be subject to disciplinary action pursuant to  
25 section 71-3517. Continuing competency requirements may include,

1 but not be limited to, one or more of the continuing competency  
2 activities listed in section ~~71-161.09~~, 45 of this act.

3 (c) The department shall adopt and promulgate rules and  
4 regulations establishing staffing, proficiency, quality control,  
5 reporting, worker health and safety, equipment, and record-keeping  
6 requirements for radon measurement businesses and radon mitigation  
7 businesses and mitigation system installation requirements for  
8 radon mitigation businesses.

9 ~~(4)~~ The department shall license persons practicing  
10 medical radiography, including medical radiographers and limited  
11 radiographers, in order to protect the occupational and public  
12 health and safety and the environment. The licenses shall  
13 be renewed biennially. For medical radiographers and limited  
14 radiographers, the department shall adopt and promulgate rules and  
15 regulations establishing examination requirements for licensure,  
16 continuing competency requirements for renewal of a license, and  
17 approval requirements for examinations. Continuing education is  
18 sufficient to meet continuing competency requirements. Continuing  
19 competency requirements may also include, but not be limited  
20 to, one or more of the continuing competency activities listed  
21 in section ~~71-161.09~~ which a licensed person may select as an  
22 alternative to continuing education. For medical radiographers,  
23 the department shall adopt and promulgate rules and regulations  
24 establishing requirements for education and training and for  
25 approval of courses of training. Persons authorized under sections



1 ~~71-193.15 and 71-193.17 to practice as dental hygienists and dental~~  
2 ~~assistants who meet the requirements of section 71-193.13 shall not~~  
3 ~~be required to be licensed under this section.~~

4 ~~(5)~~ (4) The department may exempt certain sources of  
5 radiation or kinds of uses or users from licensing or registration  
6 requirements established under the Radiation Control Act when  
7 the department finds that the exemption will not constitute a  
8 significant risk to occupational and public health and safety and  
9 the environment.

10 ~~(6)~~ (5) The department may provide by rule and regulation  
11 for the recognition of other state or federal licenses compatible  
12 and equivalent with the standards established by the department for  
13 Nebraska licensees.

14 ~~(7)~~ (6) The department may accept accreditation for an  
15 industrial radiographer by a recognized independent accreditation  
16 body, a public agency, or the federal Nuclear Regulatory  
17 Commission, which has standards that are at least as stringent as  
18 those of the State of Nebraska, as evidence that the industrial  
19 radiographer complies with the rules and regulations adopted and  
20 promulgated pursuant to the act. The department may adopt and  
21 promulgate rules and regulations which list accreditation bodies,  
22 public agencies, and federal programs that meet this standard.

23 ~~(8)~~ (7) The department may enter at all reasonable times  
24 upon any private or public property for the purpose of determining  
25 whether or not there is compliance with the act and rules and

1 regulations adopted and promulgated pursuant to the act, except  
2 that entry into areas under the jurisdiction of the federal  
3 government shall be effected only with the concurrence of the  
4 federal government or its duly designated representative.

5 ~~(9)~~ (8) The department shall cause to be registered  
6 with the department such sources of radiation as the department  
7 determines to be reasonably necessary to protect occupational and  
8 public health and safety and the environment as follows:

9 (a) The department shall, by public notice, establish a  
10 date on or before which date such sources of radiation shall be  
11 registered with the department, and the department shall provide  
12 appropriate forms for such registration. Each application for  
13 registration shall be in writing and shall state such information  
14 as the department by rules or regulations may determine to be  
15 necessary and reasonable to protect occupational and public health  
16 and safety and the environment;

17 (b) Registration of sources of radiation shall be  
18 an initial registration with appropriate notification to the  
19 department in the case of alteration of equipment, acquisition of  
20 new sources of radiation, or the transfer, loss, or destruction of  
21 sources of radiation and shall include the registration of persons  
22 installing or servicing sources of radiation;

23 (c) Failure to register or reregister sources of  
24 radiation in accordance with rules and regulations adopted and  
25 promulgated by the department shall be subject to a fine of not

1 less than fifty dollars nor more than two hundred dollars; and

2 (d) The department may provide by rule and regulation for  
3 reregistration of sources of radiation.

4 ~~(10)~~ (9) The results of any surveys or inspections of  
5 sources of radiation conducted by the department shall be public  
6 records subject to sections 84-712 to 84-712.09. In addition, the  
7 following information shall be deemed confidential:

8 (a) The names of individuals in dosimetry reports;

9 (b) Emergency response procedures which would present a  
10 clear threat to security or disclose names of individuals; and

11 (c) Any other information that is likely to present  
12 a clear threat to the security of radioactive material. The  
13 department shall make such reports of results of surveys or  
14 inspections available to the owner or operator of the source  
15 of radiation together with any recommendations of the department  
16 regarding deficiencies noted.

17 ~~(11)~~ (10) The department shall have the right to survey  
18 or inspect again any source of radiation previously surveyed  
19 without limitation of the number of surveys or inspections  
20 conducted on a given source of radiation.

21 ~~(12)~~ (11) The department may enter into contracts with  
22 persons or corporations to perform the inspection of X-ray  
23 radiation-generating equipment or devices which emit radiation  
24 from radioactive materials and to aid the department in the  
25 administration of the act.

1           Sec. 1211. Section 71-3508.03, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           71-3508.03 (1) The department shall establish by rule  
4 and regulation annual fees for the radioactive materials licenses,  
5 for inspections of radioactive materials, for the registration  
6 and inspection of radiation-generating equipment and other sources  
7 of radiation, and for radon measurement and mitigation business  
8 licenses and inspections of radon mitigation systems installations  
9 under the Radiation Control Act. The annual fee for registration  
10 and inspection of X-ray radiation generating equipment used to  
11 diagnose conditions in humans or animals shall not exceed seventy  
12 dollars per X-ray machine. The department shall also establish by  
13 rule and regulation additional fees for environmental surveillance  
14 activities performed by the department to assess the radiological  
15 impact of activities conducted by licensees and registrants. Such  
16 activities shall not duplicate surveillance programs approved by  
17 the federal Nuclear Regulatory Commission and conducted by entities  
18 licensed by such commission. No fee shall exceed the actual cost to  
19 the department for administering the act. The fees collected shall  
20 be remitted to the State Treasurer for credit to the Department  
21 of Health and Human Services Regulation and Licensure Cash Fund  
22 and shall be used solely for the purpose of defraying the direct  
23 and indirect costs of administering the act. The department shall  
24 collect such fees.

25           (2) The department may, upon application by an interested

1 person or on its own initiative, grant such exemptions from  
2 the requirements of this section as it determines are in the  
3 public interest. Applications for exemption under this subsection  
4 may include, but shall not be limited to, the use of licensed  
5 materials for educational or noncommercial displays or scientific  
6 collections.

7 (3) When a registrant or licensee fails to pay  
8 the applicable fee, the department may suspend or revoke the  
9 registration or license or may issue an appropriate order.

10 (4) The department shall establish and collect fees for  
11 licenses for individuals engaged in radon detection, measurement,  
12 and mitigation as provided in ~~section 71-162,~~ sections 51 to 57 of  
13 this act.

14 Sec. 1212. Section 71-3515, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-3515 It shall be unlawful for any person to use,  
17 manufacture, produce, distribute, sell, transport, transfer,  
18 install, repair, receive, acquire, own, or possess any source of  
19 radiation unless registered with or licensed by the department  
20 as required by the Medical Radiography Practice Act or section  
21 71-3505, 71-3507, or 71-3509.

22 Sec. 1213. Section 71-3517, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-3517 (1) Any person who violates any of the provisions  
25 of the Radiation Control Act shall be guilty of a Class IV

1 misdemeanor.

2           (2) In addition to the penalty provided in subsection  
3 (1) of this section, any person who violates any provision of the  
4 Radiation Control Act or any rule, regulation, or order issued  
5 pursuant to such act or any term, condition, or limitation of any  
6 license or registration certificate issued pursuant to such act  
7 shall be subject to:

8           (a) License revocation, suspension, modification,  
9 condition, or limitation;

10           (b) The imposition of a civil penalty; or

11           (c) The terms of any appropriate order issued by the  
12 department.

13           (3) Whenever the department proposes to subject a person  
14 to the provisions of subsection (2) of this section, the department  
15 shall notify the person in writing (a) setting forth the date,  
16 facts, and nature of each act or omission with which the person  
17 is charged, (b) specifically identifying the particular provision  
18 or provisions of the section, rule, regulation, order, license, or  
19 registration certificate involved in the violation, and (c) of the  
20 sanction or order to be imposed. If a civil penalty is imposed, the  
21 notice shall include a statement that it can be collected by civil  
22 action. The notice shall be delivered to each alleged violator by  
23 personal service, by certified or registered mail to his or her  
24 last-known address, or by publication. Notice by publication shall  
25 only be made if personal service or service by mail cannot be

1 effectuated. The sanction or order in the notice shall become final  
2 thirty days after the mailing of the notice unless the applicant,  
3 registrant, or licensee, within the thirty-day period, requests, in  
4 writing, a hearing before the department. If the notice is served  
5 by personal service or publication, the sanction or order shall  
6 become final thirty days after completion of such service unless  
7 the applicant, registrant, or licensee, within the thirty-day  
8 period, requests, in writing, a hearing before the department.

9 (4) Hearings held pursuant to subsection (3) of this  
10 section shall be held in accordance with rules and regulations  
11 adopted and promulgated by the department and shall provide for  
12 the alleged violator to present such evidence as may be proper.  
13 Witnesses may be subpoenaed by either party and shall be allowed  
14 fees at a rate prescribed by the rules and regulations of the  
15 department. A full and complete record shall be kept of the  
16 proceedings.

17 (5) Following the hearing, the director shall determine  
18 whether the charges are true or not, and if true, the director  
19 may (a) issue a declaratory order finding the charges to be true,  
20 (b) revoke, suspend, modify, condition, or limit the license, (c)  
21 impose a civil penalty in an amount not to exceed ten thousand  
22 dollars for each violation, or (d) enter an appropriate order. If  
23 any violation is a continuing one, each day of such violation shall  
24 constitute a separate violation for the purpose of computing the  
25 applicable civil penalty and the amount of the penalty shall be

1 based on the severity of the violation. A copy of such decision  
2 setting forth the finding of facts and the particular reasons upon  
3 which it is based shall be sent by either certified or registered  
4 mail to the alleged violator. The decision may be appealed, and  
5 the appeal shall be in accordance with the Administrative Procedure  
6 Act.

7 (6) Any civil penalty assessed and unpaid under  
8 subsection (5) of this section shall constitute a debt to the  
9 State of Nebraska which may be collected in the manner of a lien  
10 foreclosure or sued for and recovered in any proper form of action  
11 in the name of the State of Nebraska in the district court of  
12 the county in which the violator resides or owns property. The  
13 department shall, within thirty days from receipt, ~~transmit~~ remit  
14 any collected civil penalty to the State Treasurer for ~~deposit in~~  
15 ~~the permanent school fund.~~ distribution in accordance with Article  
16 VII, section 5, of the Constitution of Nebraska.

17 (7) In addition to the provisions of this section,  
18 radon measurement specialists, radon measurement technicians, radon  
19 mitigation specialists, and radon mitigation technicians shall  
20 be subject to the reporting, investigatory, and disciplinary  
21 provisions of sections 76 to 85, 106, 109 to 126, and 137 to  
22 139 of this act. In addition to the grounds for disciplinary action  
23 found in the Uniform Credentialing Act, a license issued to a  
24 specialist or technician may be disciplined for any violation of  
25 the Radiation Control Act or the rules and regulations adopted and



1 promulgated under the act.

2           Sec. 1214. (1) All rules and regulations adopted prior to  
3 the operative date of this section under the Radiation Control Act  
4 shall continue to be effective to the extent not in conflict with  
5 the changes made by this legislative bill until revised, amended,  
6 repealed, or nullified pursuant to law.

7           (2) All licenses or other forms of approval issued prior  
8 to the operative date of this section in accordance with the  
9 Radiation Control Act shall remain valid as issued for purposes of  
10 the changes made by this legislative bill unless revoked or their  
11 effectiveness is otherwise terminated pursuant to law.

12           (3) Any suit, action, or other proceeding, judicial or  
13 administrative, which was lawfully commenced prior to the operative  
14 date of this section under the Radiation Control Act shall be  
15 subject to the provisions of the act as they existed prior to the  
16 operative date of this section.

17           Sec. 1215. Section 71-3519, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           71-3519 Sections 71-3501 to 71-3520 and section 1214 of  
20 this act shall be known and may be cited as the Radiation Control  
21 Act.

22           Sec. 1216. Section 71-4305, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-4305 (1) The Department of Health and Human Services  
25 Regulation and Licensure shall make at least one inspection every

1 year of each swimming pool to determine that such swimming pool  
2 complies with the minimum sanitary and safety requirements.

3 (2) The owner and operator of any swimming pool shall  
4 submit such operation and analytical records as may be requested  
5 at any time by the department to determine the sanitary and safety  
6 condition of the swimming pool.

7 (3) The department shall adopt and promulgate rules and  
8 regulations which classify swimming pools on the basis of criteria  
9 deemed appropriate by the department. The department shall charge  
10 engineering firms, swimming pool owners, and other appropriate  
11 parties fees established by rules and regulations for the review  
12 of plans and specifications of a swimming pool, the issuance of  
13 a license or permit, the inspection of a swimming pool, and any  
14 other services rendered at a rate which defrays no more than  
15 the actual cost of the services provided. All fees shall be paid  
16 as a condition of annual renewal of licensure or of continuance  
17 of licensure. All fees collected under this subsection shall be  
18 remitted to the State Treasurer for credit to the Department of  
19 Health and Human Services Regulation and Licensure Cash Fund. The  
20 department shall not charge a municipal corporation an inspection  
21 fee for an inspection of a swimming pool owned by such municipal  
22 corporation.

23 (4) The department shall establish and collect fees for  
24 certificates of competency for swimming pool operators as provided  
25 in ~~section 71-162~~, sections 51 to 57 of this act.

1                   Sec. 1217. Section 71-4807, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   71-4807 (1) The donee may accept or reject the gift. If  
4 the donee accepts a gift of the entire body, he or she may, subject  
5 to the terms of the gift, authorize embalming and the use of the  
6 body in funeral services. If the gift is of a part of the body,  
7 the donee, upon the death of the donor and prior to embalming,  
8 shall cause the part to be removed without unnecessary mutilation.  
9 After removal of the part, custody of the remainder of the body  
10 vests in the surviving spouse, next of kin, or other persons under  
11 obligation to dispose of the body.

12                   (2) The time of death shall be determined by a physician  
13 who attends the donor at his or her death or, if none, the  
14 physician who certifies the death. This physician shall not  
15 participate in the procedures for removing or transplanting a  
16 part, except the enucleation of eyes. An appropriately qualified  
17 designee of a physician with training in ophthalmologic techniques  
18 or a funeral director and embalmer licensed pursuant to ~~section~~  
19 71-1302 the Funeral Directing and Embalming Practice Act upon  
20 (a) successfully completing a course in eye enucleation and (b)  
21 receiving a certificate of competence from the Department of  
22 Ophthalmology, College of Medicine of the University of Nebraska,  
23 may enucleate the eyes of the donor.

24                   (3) A person who acts in good faith in accord with the  
25 terms of the Uniform Anatomical Gift Act or under the anatomical

1 gift laws of another state shall not be liable for damages in any  
2 civil action or subject to prosecution in any criminal proceeding  
3 for his or her act.

4 (4) The Uniform Anatomical Gift Act shall be subject to  
5 the laws of this state prescribing powers and duties with respect  
6 to autopsies.

7 Sec. 1218. Section 71-4810, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 71-4810 No physician, surgeon, hospital, blood bank,  
10 tissue bank, funeral director and embalmer licensed under ~~section~~  
11 ~~71-1302,~~ the Funeral Directing and Embalming Practice Act, or  
12 other person or entity who donates, obtains, prepares, transplants,  
13 injects, transfuses, or otherwise transfers, or who assists or  
14 participates in obtaining, preparing, transplanting, injecting,  
15 transfusing, or transferring any tissue, organ, blood, or component  
16 thereof from one or more human beings, living or dead, to another  
17 human being, shall be liable in damages as a result of any such  
18 activity, save and except that each such person or entity shall  
19 remain liable in damages for his, her, or its own negligence or  
20 willful misconduct.

21 Sec. 1219. Section 71-4813, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-4813 When an autopsy is performed by the physician  
24 authorized by the county coroner to perform such autopsy, the  
25 physician or an appropriately qualified designee with training

1 in ophthalmologic techniques, as provided for in subsection (2)  
2 of section 71-4807, may remove eye tissue of the decedent for  
3 the purpose of transplantation. The physician may also remove  
4 the pituitary gland for the purpose of research and treatment of  
5 hypopituitary dwarfism and of other growth disorders. Removal of  
6 the eye tissue or the pituitary gland shall only take place if the:

7 (1) Autopsy was authorized by the county coroner;

8 (2) County coroner receives permission from the person  
9 having control of the disposition of the decedent's remains  
10 pursuant to section ~~71-1339~~; 561 of this act; and

11 (3) Removal of eye tissue or of the pituitary gland will  
12 not interfere with the course of any subsequent investigation or  
13 alter the decedent's post mortem facial appearance.

14 The removed eye tissue or pituitary gland shall be  
15 transported to the Director of Regulation and Licensure or any  
16 desired institution or health facility as prescribed by section  
17 ~~71-1341~~. 563 of this act.

18 Sec. 1220. Section 71-51,102, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-51,102 (1) For purposes of this section:

21 (a) Automated external defibrillator means a device that:

22 (i) Is capable of recognizing the presence or absence  
23 of ventricular fibrillation or rapid ventricular tachycardia and  
24 is capable of determining, without intervention of an operator,  
25 whether defibrillation should be performed; and

1           (ii) Automatically charges and requests delivery of an  
2 electrical impulse to an individual's heart when it has identified  
3 a condition for which defibrillation should be performed;

4           (b) Emergency medical service means an emergency medical  
5 service as defined in section ~~71-5175~~, 491 of this act;

6           (c) Health care facility means a health care facility as  
7 defined in section 71-413;

8           (d) Health care practitioner facility means a health care  
9 practitioner facility as defined in section 71-414; and

10          (e) Health care professional means any person who is  
11 licensed, certified, or registered by the Department of Health  
12 and Human Services Regulation and Licensure and who is authorized  
13 within his or her scope of practice to use an automated external  
14 defibrillator.

15          (2) Except for the action or omission of a health  
16 care professional acting in such capacity or in a health care  
17 facility, no person who delivers emergency care or treatment  
18 using an automated external defibrillator shall be liable in any  
19 civil action to respond in damages as a result of his or her  
20 acts of commission or omission arising out of and in the course  
21 of rendering such care or treatment in good faith. Nothing in  
22 this subsection shall be construed to (a) grant immunity for  
23 any willful, wanton, or grossly negligent acts of commission or  
24 omission or (b) limit the immunity provisions for certain health  
25 care professionals as provided in section ~~71-5194~~, 516 of this act.

1           (3) A person acquiring an automated external  
2 defibrillator shall notify the local emergency medical service  
3 of the existence, location, and type of the defibrillator and  
4 of any change in the location of such defibrillator unless the  
5 defibrillator was acquired for use in a private residence, a health  
6 care facility, or a health care practitioner facility.

7           Sec. 1221. Section 71-51,103, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-51,103 There is hereby created the Nebraska Emergency  
10 Medical System Operations Fund. The fund may receive gifts,  
11 bequests, grants, fees, or other contributions or donations from  
12 public or private entities. The fund shall be used to carry out  
13 the purposes of the Statewide Trauma System Act and the Emergency  
14 Medical Services Practice Act, including activities related to the  
15 design, maintenance, or enhancement of the statewide trauma system,  
16 support of emergency medical services programs, and support for  
17 the emergency medical services programs for children. The Director  
18 of Regulation and Licensure shall annually, on or before January  
19 1, submit a report to the Legislature which includes a general  
20 accounting of the income and expenditures of the fund. Any money in  
21 the fund available for investment shall be invested by the state  
22 investment officer pursuant to the Nebraska Capital Expansion Act  
23 and the Nebraska State Funds Investment Act.

24           Sec. 1222. Section 71-5301, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

1                   71-5301 For purposes of the Nebraska Safe Drinking Water  
2 Act, unless the context otherwise requires:

3                   (1) Council means the Advisory Council on Public Water  
4 Supply;

5                   (2) Director means the Director of Regulation and  
6 Licensure or his or her authorized representative;

7                   (3) Designated agent means any political subdivision or  
8 corporate entity having the demonstrated capability and authority  
9 to carry out in whole or in part the Nebraska Safe Drinking  
10 Water Act and with which the Director of Regulation and Licensure  
11 has consummated a legal and binding contract covering specifically  
12 delegated responsibilities;

13                   (4) Major construction, extension, or alteration means  
14 those structural changes that affect the source of supply,  
15 treatment processes, or transmission of water to service areas but  
16 does not include the extension of service mains within established  
17 service areas;

18                   (5) Operator means the individual or individuals  
19 responsible for the continued performance of the water supply  
20 system or any part of such system during assigned duty hours;

21                   (6) Owner means any person owning or operating a public  
22 water system;

23                   (7) Person means any individual, corporation, firm,  
24 partnership, limited liability company, association, company,  
25 ~~corporation,~~ trust, estate, public or private institution, group,



1 agency, political subdivision, or other entity or any legal  
2 successor, representative, agent, or agency of any of such  
3 entities;

4 (8) Water supply system means all sources of water and  
5 their surroundings under the control of one owner and includes  
6 all structures, conduits, and appurtenances by means of which such  
7 water is collected, treated, stored, or delivered except service  
8 pipes between street mains and buildings and the plumbing within or  
9 in connection with the buildings served;

10 (9) (a) Public water system means a system for providing  
11 the public with water for human consumption through pipes or ~~after~~  
12 ~~August 5, 1998,~~ other constructed conveyances, if such system has  
13 at least fifteen service connections or regularly serves an average  
14 of at least twenty-five individuals daily at least sixty days per  
15 year. Public water system includes (i) any collection, treatment,  
16 storage, and distribution facilities under control of the operator  
17 of such system and used primarily in connection with such system  
18 and (ii) any collection or pretreatment storage facilities not  
19 under such control which are used primarily in connection with such  
20 system. Public water system does not include a special irrigation  
21 district. A public water system is either a community water system  
22 or a noncommunity water system.

23 (b) Service connection does not include a connection to  
24 a system that delivers water by a constructed conveyance other  
25 than a pipe if (i) the water is used exclusively for purposes

1 other than residential uses, consisting of drinking, bathing,  
2 cooking, and other similar uses, (ii) the department determines  
3 that alternative water to achieve the equivalent level of public  
4 health protection provided by the Nebraska Safe Drinking Water Act  
5 and rules and regulations under the act is provided for residential  
6 or similar uses for drinking and cooking, or (iii) the department  
7 determines that the water provided for residential or similar uses  
8 for drinking, cooking, and bathing is centrally treated or treated  
9 at the point of entry by the provider, a pass-through entity, or  
10 the user to achieve the equivalent level of protection provided by  
11 the Nebraska Safe Drinking Water Act and the rules and regulations  
12 under the act.

13 (c) Special irrigation district means an irrigation  
14 district in existence prior to May 18, 1994, that provides  
15 primarily agricultural service through a piped water system with  
16 only incidental residential or similar use if the system or the  
17 residential or similar users of the system comply with exclusion  
18 provisions of subdivision (b)(ii) or (iii) of this subdivision;

19 (10) Drinking water standards means rules and regulations  
20 adopted and promulgated pursuant to section 71-5302 which (a)  
21 establish maximum levels for harmful materials which, in the  
22 judgment of the Director of Regulation and Licensure, may have an  
23 adverse effect on the health of persons and (b) apply only to  
24 public water systems;

25 (11) Lead free (a) when used with respect to solders and

1 flux means solders and flux containing not more than two-tenths  
2 percent lead, (b) when used with respect to pipes and pipe fittings  
3 means pipes and pipe fittings containing not more than eight  
4 percent lead, and (c) when used with respect to plumbing fittings  
5 and fixtures intended by the manufacturer to dispense water for  
6 human ingestion means fittings and fixtures that are in compliance  
7 with standards established in accordance with 42 U.S.C. 300g-6(e)  
8 as such section existed on July 16, 2004;

9 (12) Community water system means a public water system  
10 that (a) serves at least fifteen service connections used by  
11 year-round residents of the area served by the system or (b)  
12 regularly serves at least twenty-five year-round residents;

13 (13) Noncommunity water system means a public water  
14 system that is not a community water system;

15 (14) Nontransient noncommunity water system means a  
16 public water system that is not a community water system and  
17 that regularly serves at least twenty-five of the same individuals  
18 over six months per year; and

19 (15) Small system means a public water system that  
20 regularly serves less than ten thousand individuals. + and

21 ~~(16) Probation means a disciplinary action not to exceed~~  
22 ~~two years in length during which a certificate holder may continue~~  
23 ~~to operate under terms and conditions fixed by the order of~~  
24 ~~probation.~~

25 Sec. 1223. Section 71-5303, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-5303 (1) No person shall operate or maintain a public  
3 water system without first obtaining a permit to operate such  
4 system from the director. No fee shall be charged for the issuance  
5 of such permit.

6           (2) The director shall inspect public water systems and  
7 report findings to the owner, publish a list of those systems  
8 not in compliance, and promote the training of and certify  
9 the competence of operators. The director may deny~~7~~ or revoke~~7~~  
10 suspend~~7~~ or refuse renewal of a permit~~7~~ or certification~~7~~, place  
11 a certificate holder on probation~~7~~, issue administrative orders  
12 scheduling action to be taken, take emergency action as provided  
13 in section 71-5304.01, and seek a temporary or permanent injunction  
14 or such other legal process as is deemed necessary to obtain  
15 compliance with the Nebraska Safe Drinking Water Act.

16           (3) ~~The Department of Health and Human Services~~  
17 ~~Regulation and Licensure may deny~~7~~, revoke~~7~~, suspend~~7~~, or refuse to~~  
18 ~~renew a permit or certification or place a certificate holder on~~  
19 ~~probation. A permit may be denied or revoked~~ for noncompliance with  
20 the act, the rules and regulations adopted and promulgated under  
21 the act, or the terms of a variance or exemption issued pursuant  
22 to section 71-5310.

23           (4) Any person shall be granted, upon request, an  
24 opportunity for a hearing before the department under the  
25 Administrative Procedure Act prior to the denial or revocation

1 of a permit, ~~or certification or the placement of a certificate~~  
2 ~~holder on probation.~~ The denial, ~~or~~ revocation, ~~or the placement on~~  
3 ~~probation by the department~~ may be appealed, and the appeal shall  
4 be in accordance with the Administrative Procedure Act.

5           Sec. 1224. Section 71-5305.02, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7           71-5305.02 The Department of Health and Human Services  
8 Regulation and Licensure shall develop a capacity development  
9 strategy to assist public water systems in acquiring and  
10 maintaining technical, managerial, and financial capacity pursuant  
11 to section 71-5305.01. The department shall consider and solicit  
12 public comment on:

13           (1) The methods or criteria the department will use to  
14 identify and prioritize the public water systems most in need of  
15 improving technical, managerial, and financial capacity;

16           (2) A description of the institutional, regulatory,  
17 financial, tax, or legal factors at the federal, state, or local  
18 level that encourage or impair capacity development;

19           (3) A description of how the department will:

20           (a) Assist public water systems in complying with the  
21 Nebraska Safe Drinking Water Act;

22           (b) Encourage the development of partnerships between  
23 public water systems to enhance the technical, managerial, and  
24 financial capacity of the systems; and

25           (c) Assist public water systems in the training and

1 ~~certification licensure~~ of operators; and

2 (4) A description of how the department will establish a  
3 baseline and measure improvements in capacity with respect to the  
4 act.

5 Sec. 1225. Section 71-5307, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-5307 No public water system shall be issued or  
8 otherwise hold a permit to operate a public water system, granted  
9 by the department, unless its operator possesses a certificate of  
10 ~~competency~~ license issued by the department.

11 Sec. 1226. Section 71-5308, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-5308 ~~(1)~~ Application for a certificate of competency  
14 license to act as a certified licensed operator of a public  
15 water system shall be made upon forms prepared by the director  
16 and shall contain such information as the director, by rule and  
17 regulation, deems necessary. If the applicant is an individual, the  
18 application shall include the applicant's social security number.  
19 as provided in the Uniform Credentialing Act. The department shall  
20 establish and collect fees for certificates of competency licenses  
21 as provided in ~~section 71-162.~~ sections 51 to 57 of this act. An  
22 operator shall be licensed in the same manner as an individual  
23 under subsection (1) of section 21 of this act and shall be subject  
24 to the reporting, investigatory, and disciplinary provisions of  
25 sections 76 to 85, 106, 109 to 126, and 137 to 139 of this act.

1 In addition to the grounds for disciplinary action found in the  
2 Uniform Credentialing Act, a license issued under the Nebraska Safe  
3 Drinking Water Act may be disciplined for any violation of the act  
4 or the rules and regulations adopted and promulgated under the act.

5 An individual holding a certificate as a certified  
6 operator of a public water system under the Nebraska Safe Drinking  
7 Water Act on December 1, 2008, shall be deemed to be holding  
8 a license under the Uniform Credentialing Act and the Nebraska  
9 Safe Drinking Water Act on such date. The certificate holder  
10 may continue to practice under such certificate as a license in  
11 accordance with such acts until the certificate would have expired  
12 under its terms.

13 ~~(2) Certificates of competency to act as certified~~  
14 ~~operators of public water systems shall be issued by the department~~  
15 ~~for the calendar years applied for and shall expire at midnight~~  
16 ~~on December 31 of the third year. Certificates of competency~~  
17 ~~may be renewed triennially upon application and completion of~~  
18 ~~continuing competency requirements established by the department in~~  
19 ~~rules and regulations. The requirements may include, but not be~~  
20 ~~limited to, one or more of the continuing competency activities~~  
21 ~~listed in section 71-161.09. The department shall notify each~~  
22 ~~certificate holder at least ninety days before the expiration of~~  
23 ~~the certificate by a letter addressed to him or her at his or her~~  
24 ~~last place of residence as noted upon its records.~~

25 ~~(3) The department shall, within thirty days after~~

1 ~~receipt of an application, make an investigation and, if found~~  
2 ~~in compliance with regulations adopted pursuant to section 71-5309,~~  
3 ~~shall issue a certificate of competency, valid until midnight of~~  
4 ~~December 31 of the third year.~~

5           Sec. 1227. Section 71-5309, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-5309 (1) The director shall adopt and promulgate  
8 minimum necessary rules and regulations governing the  
9 qualifications of operators of public water systems. In  
10 adopting such rules and regulations, the director shall give  
11 consideration to the levels of training and experience which are  
12 required, in the opinion of the director, to insure to the greatest  
13 extent possible that the public water systems shall be operated  
14 in such a manner that (a) maximum efficiency can be attained, (b)  
15 interruptions in service will not occur, (c) chemical treatment of  
16 the water will be adequate to maintain purity and safety, and (d)  
17 harmful materials will not enter the public water system.

18           (2) The director may require, by rule and regulation,  
19 that the applicant for a ~~certificate of competency~~ license  
20 successfully pass an examination on the subject of operation  
21 of a public water system. The rules and regulations, and any tests  
22 so administered, may set out different requirements for public  
23 water systems based on one or more of the following: Physical size  
24 of the facilities, number of persons served, system classification,  
25 source of water, treatment technique and purpose, and distribution



1 complexity, so long as the criteria set forth in this section are  
2 followed.

3 ~~(2) Any such certificate of competency may be denied,~~  
4 ~~suspended, revoked, or refused renewal by the director for due~~  
5 ~~cause. The holder of a certificate of competency may also be~~  
6 ~~placed on probation by the director for due cause. Due cause~~  
7 ~~shall include, but not be limited to, (a) fraud in processing~~  
8 ~~the certificate, (b) habitual intoxication or addiction to the~~  
9 ~~use of drugs, (c) conviction of a felony, (d) physical or mental~~  
10 ~~incapacity to perform professional duties, (e) violation of any~~  
11 ~~of the provisions of the Nebraska Safe Drinking Water Act or any~~  
12 ~~rules or regulations adopted and promulgated under such act, and~~  
13 ~~(f) failure to pay the required fee. If a certificate holder is~~  
14 ~~placed on probation, his or her certificate may be revoked if~~  
15 ~~the probationary requirements are not followed. Except in cases~~  
16 ~~of failure to pay the required fees, no certificate of competency~~  
17 ~~shall be denied, suspended, or revoked except after due notice and~~  
18 ~~opportunity for a hearing. Any denial, suspension, or revocation of~~  
19 ~~such certificate of competency or the placement of a certificate~~  
20 ~~holder on probation may be appealed, and the appeal shall be in~~  
21 ~~accordance with the Administrative Procedure Act.~~

22 Sec. 1228. Section 71-5311, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-5311 (1) There is hereby established the Advisory  
25 Council on Public Water Supply which shall advise and assist the

1 department in administering the Nebraska Safe Drinking Water Act.

2 (2) The council shall be composed of seven members  
3 appointed by the Governor, (a) one of whom shall be a professional  
4 engineer, (b) one of whom shall be a licensed physician, (c) two  
5 of whom shall be consumers of a public water system, (d) two  
6 of whom shall be operators of a public water system who possess  
7 a ~~certificate of competency~~ license issued by the Department of  
8 Health and Human Services Regulation and Licensure to operate a  
9 public water system. One such operator shall represent a system  
10 serving a population of five thousand or less, and one such  
11 operator shall represent a system serving a population of more  
12 than five thousand, and (e) one of whom shall be, at the time of  
13 appointment, (i) an individual who owns a public water system, (ii)  
14 a member of the governing board of a public or private corporation  
15 which owns a public water system, or (iii) in the case of a  
16 political subdivision which owns a public water system, a member  
17 of the subdivision's governing board or board of public works  
18 or similar board which oversees the operation of a public water  
19 system.

20 ~~Any owner or operator of a public water system serving~~  
21 ~~on the council on March 2, 1989, shall continue to serve until the~~  
22 ~~term of such member expires. As his or her term expires, such owner~~  
23 ~~or operator shall be replaced by a person qualified as prescribed~~  
24 ~~in subdivisions (d) and (e) of this subsection respectively.~~

25 (3) All members shall be appointed for three-year terms.

1 No member shall serve more than three consecutive three-year terms.  
2 Each member shall hold office until the expiration of his or her  
3 term or until a successor has been appointed. Any vacancy occurring  
4 in council membership, other than by expiration of term, shall be  
5 filled within sixty days by the Governor by appointment from the  
6 appropriate category for the unexpired term.

7 (4) The council shall meet not less than once each year.  
8 Special meetings of the council may be called by the director  
9 or upon the written request of any two members of the council  
10 explaining the reason for such meeting. The place of the meeting  
11 shall be set by the director. Such officers as the council deems  
12 necessary shall be elected every three years beginning with the  
13 first meeting in the year 1990. A majority of the members of the  
14 council shall constitute a quorum for the transaction of business.  
15 Representatives of the department shall attend each meeting. Every  
16 act of the majority of the members of the council shall be deemed  
17 to be the act of the council.

18 (5) No member of the council shall receive any  
19 compensation, but each member shall be entitled, while serving on  
20 the business of the council, to receive his or her travel and other  
21 necessary expenses while so serving away from his or her place of  
22 residence as provided in sections 81-1174 to 81-1177.

23 Sec. 1229. (1) All rules and regulations adopted prior  
24 to the operative date of this section under the Nebraska Safe  
25 Drinking Water Act shall continue to be effective to the extent not

1 in conflict with the changes made by this legislative bill until  
2 revised, amended, repealed, or nullified pursuant to law.

3 (2) All certificates or other forms of approval issued  
4 prior to the operative date of this section in accordance with  
5 the Nebraska Safe Drinking Water Act shall remain valid as issued  
6 for purposes of the changes made by this legislative bill unless  
7 revoked or their effectiveness is otherwise terminated pursuant to  
8 law.

9 (3) Any suit, action, or other proceeding, judicial or  
10 administrative, which was lawfully commenced prior to the operative  
11 date of this section under the Nebraska Safe Drinking Water Act  
12 shall be subject to the provisions of the act as they existed prior  
13 to the operative date of this section.

14 Sec. 1230. Section 71-5313, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-5313 Sections 71-5301 to 71-5313 and section 1229 of  
17 this act shall be known and may be cited as the Nebraska Safe  
18 Drinking Water Act.

19 Sec. 1231. Section 71-5402, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 71-5402 For purposes of the Nebraska Drug Product  
22 Selection Act, unless the context otherwise requires:

23 (1) Bioequivalent means drug products: (a) That are  
24 legally marketed under regulations promulgated by the federal  
25 Food and Drug Administration; (b) that are the same dosage form

1 of the identical active ingredients in the identical amounts  
2 as the drug product prescribed; (c) that comply with compendial  
3 standards and are consistent from lot to lot with respect to (i)  
4 purity of ingredients, (ii) weight variation, (iii) uniformity of  
5 content, and (iv) stability; and (d) for which the federal Food and  
6 Drug Administration has established bioequivalent standards or has  
7 determined that no bioequivalence problems exist;

8 (2) Board means the Board of Pharmacy;

9 (3) Brand name means the proprietary or trade name  
10 selected by the manufacturer, distributor, or packager for a drug  
11 product and placed upon the labeling of such product at the time  
12 of packaging;

13 (4) Chemically equivalent means drug products that  
14 contain amounts of the identical therapeutically active ingredients  
15 in the identical strength, quantity, and dosage form and that meet  
16 present compendial standards;

17 (5) Department means the Department of Health and Human  
18 Services Regulation and Licensure;

19 (6) Drug product means any drug or device as defined in  
20 section ~~71-1,142,~~ 937 of this act;

21 (7) Drug product select means to dispense, without the  
22 practitioner's express authorization, an equivalent drug product in  
23 place of the brand-name drug product contained in a medical order  
24 of such practitioner;

25 (8) Equivalent means drug products that are both

1 chemically equivalent and bioequivalent;

2 (9) Generic name means the official title of a drug or  
3 drug combination as determined by the United States Adopted Names  
4 Council and accepted by the federal Food and Drug Administration of  
5 those drug products having the same active chemical ingredients in  
6 the same strength and quantity;

7 (10) Medical order has the definition found in section  
8 ~~71-1,142, 924~~ of this act;

9 (11) Pharmacist means a pharmacist licensed under the  
10 ~~Uniform Licensing Law,~~ Pharmacy Practice Act; and

11 (12) Practitioner has the definition found in section  
12 ~~71-1,142, 934~~ of this act.

13 Sec. 1232. Section 71-5654, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-5654 The Nebraska Rural Health Advisory Commission is  
16 hereby created as the direct and only successor to the Commission  
17 on Rural Health Manpower. The Nebraska Rural Health Advisory  
18 Commission shall consist of thirteen members as follows:

19 (1) The Director of Regulation and Licensure or his or  
20 her designee and the Director of Health and Human Services or his  
21 or her designee; and

22 (2) Eleven members to be appointed by the Governor with  
23 the advice and consent of the Legislature as follows:

24 (a) One representative of each medical school located in  
25 the state involved in training family physicians and one physician

1 in family practice residency training; and

2 (b) From rural areas one physician, one consumer  
3 representative, one hospital administrator, one nursing home  
4 administrator, one nurse, one physician assistant, one mental  
5 health practitioner or psychologist licensed under the requirements  
6 of section ~~71-1,206.15~~ 1048 of this act or the equivalent thereof,  
7 and one dentist.

8 Members shall serve for terms of three years. When a  
9 vacancy occurs, appointment to fill the vacancy shall be made  
10 for the balance of the term. All appointed members shall be  
11 citizens and residents of Nebraska. The appointed membership of  
12 the commission shall, to the extent possible, represent the three  
13 congressional districts equally.

14 Sec. 1233. Section 71-5662, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 71-5662 (1) To be eligible for a student loan under the  
17 Rural Health Systems and Professional Incentive Act, an applicant  
18 or a recipient shall be enrolled or accepted for enrollment in  
19 an accredited medical or dental education program or physician  
20 assistant education program or an approved mental health practice  
21 program in Nebraska.

22 (2) To be eligible for loan repayment under the act,  
23 an applicant or a recipient shall be a pharmacist, a dentist,  
24 a physical therapist, an occupational therapist, a mental health  
25 practitioner, a psychologist licensed under the requirements of

1 section ~~71-1,206-15~~ 1048 of this act or the equivalent thereof,  
2 an advanced practice registered nurse, a physician assistant, or  
3 a physician in an approved specialty and shall be licensed to  
4 practice in Nebraska, not be enrolled in a residency program,  
5 not be practicing under a provisional or temporary license, and  
6 enter practice in a designated health profession shortage area in  
7 Nebraska.

8 Sec. 1234. Section 71-6038, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 71-6038 For purposes of sections 71-6038 to 71-6042 and  
11 section 1239 of this act:

12 (1) Complicated feeding problems include, but are not  
13 limited to, difficulty swallowing, recurrent lung aspirations, and  
14 tube or parenteral or intravenous feedings;

15 (2) Department means the Department of Health and Human  
16 Services Regulation and Licensure;

17 (3) Nursing assistant means any person employed by a  
18 nursing home for the purpose of aiding a licensed registered or  
19 practical nurse through the performance of nonspecialized tasks  
20 related to the personal care and comfort of residents other than a  
21 paid dining assistant or a licensed registered or practical nurse;

22 (4) Nursing home means any facility or a distinct part  
23 of any facility that provides care as defined in sections 71-420,  
24 71-421, 71-422, 71-424, and 71-429; and

25 (5) Paid dining assistant means any person employed by



1 a nursing home for the purpose of aiding a licensed registered  
2 or practical nurse through the feeding of residents other than a  
3 nursing assistant or a licensed registered or practical nurse.

4 Sec. 1235. Section 71-6039, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 71-6039 (1) No person shall act as a nursing assistant in  
7 a nursing home unless such person:

8 (a) Is at least sixteen years of age and has not been  
9 convicted of a crime involving moral turpitude;

10 (b) Is able to speak and understand the English language  
11 or a language understood by a substantial portion of the nursing  
12 home residents; and

13 (c) Has successfully completed a basic course of training  
14 approved by the department for nursing assistants within one  
15 hundred twenty days of initial employment in the capacity of a  
16 nursing assistant at any nursing home. ~~if employment begins after~~  
17 ~~January 1, 1984.~~

18 (2) The department may prescribe a curriculum for  
19 training nursing assistants and may adopt and promulgate rules  
20 and regulations for such courses of training. The content of  
21 the courses of training and competency evaluation programs shall  
22 be consistent with federal requirements unless exempted. The  
23 department may approve courses of training if such courses of  
24 training meet the requirements of this section. Such courses of  
25 training shall include instruction on the responsibility of each

1 nursing assistant to report suspected abuse or neglect pursuant  
2 to sections 28-372 and 28-711. Nursing homes may carry out  
3 approved courses of training within the nursing home, except that  
4 nursing homes may not conduct the competency evaluation part of  
5 the program. The prescribed training shall be administered by a  
6 licensed registered nurse.

7 (3) For nursing assistants at intermediate care  
8 facilities for the mentally retarded, such courses of training  
9 shall be no less than twenty hours in duration and shall include  
10 at least fifteen hours of basic personal care training and five  
11 hours of basic therapeutic and emergency procedure training, and  
12 for nursing assistants at all nursing homes other than intermediate  
13 care facilities for the mentally retarded, such courses shall be no  
14 less than seventy-five hours in duration.

15 (4) This section shall not prohibit any facility from  
16 exceeding the minimum hourly or training requirements.

17 Sec. 1236. Section 71-6040, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 71-6040 The department shall approve all courses,  
20 lectures, seminars, course materials, or other instructional  
21 programs used to meet the requirements of sections 71-6038 to  
22 71-6042 and section 1239 of this act.

23 Sec. 1237. Section 71-6041, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-6041 To protect the health, safety, and welfare of

1 nursing home residents and the public, the department shall adopt  
2 and promulgate such rules and regulations as are necessary for the  
3 effective administration of sections 71-6038 to 71-6042 and section  
4 1239 of this act. Such rules and regulations shall be consistent  
5 with federal requirements developed by the United States Department  
6 of Health and Human Services.

7           Sec. 1238. Section 71-6042, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           71-6042 The department shall have the authority to  
10 enforce sections 71-6038 to 71-6042 and section 1239 of this  
11 act and rules and regulations adopted under section 71-6041 by  
12 any of the following means: Denial, suspension, restriction, or  
13 revocation of a nursing home's license, refusal of the renewal of a  
14 nursing home's license, restriction of a nursing home's admissions,  
15 or any other enforcement provision granted to the department.

16           Sec. 1239. Nursing assistants and paid dining assistants  
17 are eligible to participate in the Licensee Assistance Program as  
18 prescribed by section 75 of this act.

19           Sec. 1240. Section 71-6211, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-6211 Health professional group not previously  
22 regulated shall mean those persons or groups who are not currently  
23 licensed or otherwise regulated under ~~Chapter 71,~~ the Uniform  
24 Credentialing Act, who are determined by the director to be  
25 qualified by training, education, or experience to perform

1 the functions prescribed in this section, and whose principal  
2 functions, customarily performed for remuneration, are to render  
3 services directly or indirectly to individuals for the purpose of:

4 (1) Preventing physical, mental, or emotional injury or  
5 illness, excluding persons acting in their capacity as clergy;

6 (2) Facilitating recovery from injury or illness; or

7 (3) Providing rehabilitative or continuing care following  
8 injury or illness.

9 Sec. 1241. Section 71-6218, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-6218 Regulated health professions shall mean those  
12 persons or groups who are currently licensed or otherwise regulated  
13 under ~~Chapter 71,~~ the Uniform Credentialing Act, who are qualified  
14 by training, education, or experience to perform the functions  
15 prescribed in this section, and whose principal functions,  
16 customarily performed for remuneration, are to render services  
17 directly or indirectly to individuals for the purpose of:

18 (1) Preventing physical, mental, or emotional injury or  
19 illness;

20 (2) Facilitating recovery from injury or illness; or

21 (3) Providing rehabilitative or continuing care following  
22 injury or illness.

23 Sec. 1242. Section 71-6301, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-6301 For purposes of the Asbestos Control Act, unless

1 the context otherwise requires:

2 (1) Asbestos means asbestiform varieties of chrysotile,  
3 crocidolite, amosite, anthophyllite, tremolite, and actinolite;

4 (2) Asbestos encapsulation project means activities which  
5 include the coating of asbestos-containing surface material with a  
6 bridging or penetrating type of sealing material for the intended  
7 purpose of preventing the continued release of asbestos fibers  
8 from the material into the air. Such project does not include the  
9 repainting of a previously painted nonfriable asbestos-containing  
10 surface which is not damaged primarily for improving the appearance  
11 of such surface;

12 (3) Asbestos enclosure project means activities which  
13 physically isolate friable asbestos and which control and contain  
14 fibers released from asbestos-containing material by constructing a  
15 permanent airtight barrier between the asbestos-containing material  
16 and the occupied building space;

17 (4) Asbestos occupation means an inspector, management  
18 planner, project designer, project monitor, supervisor, or worker;

19 (5) Asbestos project means an asbestos enclosure project,  
20 an asbestos encapsulation project, an asbestos removal project,  
21 an asbestos-related demolition project, or an asbestos-related  
22 dismantling project but does not include (a) any activities which  
23 affect three square feet or less or three linear feet or less  
24 of asbestos-containing material on or in a structure or equipment  
25 or any appurtenances thereto or (b) any activities physically

1 performed by a homeowner, a member of the homeowner's family, or an  
2 unpaid volunteer on or in the homeowner's residential property of  
3 four units or less;

4 (6) Asbestos removal project means activities which  
5 include the physical removal of friable asbestos-containing  
6 material from the surface of a structure or from equipment which  
7 is intended to remain in place after the removal. Such project  
8 also includes the physical removal of asbestos from a structure or  
9 equipment after such structure or equipment has been removed as  
10 part of an asbestos-related dismantling project;

11 (7) Asbestos-related demolition project means activities  
12 which include the razing of all or a portion of a structure  
13 which contains friable asbestos-containing materials or other  
14 asbestos-containing materials which may become friable when  
15 such materials are cut, crushed, ground, ~~abraided,~~ abraded, or  
16 pulverized;

17 (8) Asbestos-related dismantling project means activities  
18 which include the disassembly, handling, and moving of the  
19 components of any structure or equipment which has been coated with  
20 asbestos-containing material without first removing such material  
21 from the structure or from the equipment;

22 (9) Business entity means a partnership, limited  
23 liability company, firm, association, corporation, sole  
24 proprietorship, public entity, or other public or private  
25 business concern involved in an asbestos project except an entity

1 solely involved as a management planner or project designer;

2 ~~(10) Certificate means an authorization issued by the~~  
3 ~~department permitting an individual person to work in an asbestos~~  
4 ~~occupation;~~

5 ~~(11) (10) Demolition means the wrecking, razing, or~~  
6 ~~removal of any structure or load-supporting structural item of any~~  
7 ~~structure, including any related material handling operations, and~~  
8 ~~includes the intentional burning of any structure;~~

9 ~~(12) (11) Department means the Department of Health and~~  
10 ~~Human Services Regulation and Licensure;~~

11 ~~(13) (12) Director means the Director of Regulation and~~  
12 ~~Licensure or his or her designee;~~

13 ~~(14) (13) Enclosure means the construction of an~~  
14 ~~airtight, impermeable, permanent barrier around asbestos-containing~~  
15 ~~material to control the release of asbestos fibers into the air;~~

16 ~~(15) (14) Friable asbestos means asbestos in a form which~~  
17 ~~can be crumbled, pulverized, or reduced to powder by hand pressure;~~

18 ~~(16) (15) Inspector means an individual who is certified~~  
19 ~~licensed by the department to identify and assess the condition of~~  
20 ~~asbestos-containing material;~~

21 ~~(17) (16) Instructor means an individual who is approved~~  
22 ~~by the department to teach an asbestos-related training course;~~

23 ~~(18) (17) License means an authorization issued by the~~  
24 ~~department permitting a business entity to engage in an asbestos~~  
25 ~~project; to an individual to engage in a profession or to a~~

1 business to provide services which would otherwise be unlawful in  
2 this state in the absence of such authorization;

3       ~~(19)~~ (18) Management planner means an individual who  
4 is ~~certified~~ licensed by the department to assess the hazard  
5 of materials containing asbestos, to determine the appropriate  
6 response actions, and to write management plans;

7       ~~(20)~~ (19) Project designer means an individual who is  
8 ~~certified~~ licensed by the department to formulate plans and write  
9 specifications for conducting asbestos projects;

10       ~~(21)~~ (20) Project monitor means an individual who  
11 is ~~certified~~ licensed by the department to observe abatement  
12 activities performed by contractors, to represent the building  
13 owner to ensure work is completed according to specifications and  
14 in compliance with statutes and regulations, and to perform air  
15 monitoring to determine final clearance;

16       ~~(22)~~ (21) Project review means review of a licensed  
17 business entity's proposed asbestos project;

18       ~~(23)~~ (22) Renovation means the altering of a structure,  
19 one or more structural items, or one or more equipment items in  
20 any way, including any asbestos project performed on a structure,  
21 structural item, or equipment item;

22       ~~(24)~~ (23) Supervisor means an individual who is ~~certified~~  
23 licensed by the department to supervise and direct an asbestos  
24 project in accordance with the Asbestos Control Act and the rules  
25 and regulations adopted and promulgated pursuant to such act; and



1           ~~(25)~~ (24) Worker means an individual who is ~~certified~~  
2 licensed by the department to clean, handle, repair, remove,  
3 encapsulate, haul, dispose of, or otherwise work with asbestos  
4 material in a nonsupervisory capacity.

5           Sec. 1243. Section 71-6303, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-6303 (1) The department shall administer the Asbestos  
8 Control Act.

9           (2) The department shall adopt and promulgate rules and  
10 regulations necessary to carry out the act. The department shall  
11 adopt state standards governing asbestos projects and may adopt  
12 or incorporate part or all of any federal standards in the state  
13 standards so long as state standards are no less stringent than  
14 federal standards.

15           ~~(3)~~ (3)(a) The department shall prescribe fees based upon  
16 the following schedule:

17           ~~(a)~~ (i) For a business entity license or license renewal,  
18 not less than two thousand dollars or more than five thousand  
19 dollars;

20           ~~(b)~~ (ii) For waiver on an emergency basis of a business  
21 entity license, not less than two thousand dollars or more than  
22 five thousand dollars;

23           ~~(c)~~ (iii) For waiver of a license for a business entity  
24 not primarily engaged in asbestos projects, not less than two  
25 thousand dollars or more than five thousand dollars;

1           ~~(d)~~ (iv) For approval of an initial training course, not  
2 less than one thousand dollars or more than two thousand five  
3 hundred dollars, which fee shall include one onsite inspection if  
4 the inspection is required by the department;

5           ~~(e)~~ (v) For approval of a review course or a four-hour  
6 course on Nebraska law, rules, and regulations, not less than five  
7 hundred dollars or more than one thousand dollars, which fee shall  
8 include one onsite inspection if the inspection is required by the  
9 department;

10          ~~(f)~~ (vi) For an onsite inspection of an asbestos project  
11 other than an initial inspection, not less than one hundred fifty  
12 dollars or more than two hundred fifty dollars. Such fees shall not  
13 be assessed for more than three onsite inspections per year during  
14 the period an actual asbestos project is in progress; and

15          ~~(g)~~ (vii) For a project review of each asbestos project  
16 of a licensed business entity which is equal to or greater than  
17 two hundred sixty linear feet or any combination which is equal  
18 to or greater than one hundred sixty square feet and linear feet,  
19 including any initial onsite inspection, not less than two hundred  
20 dollars or more than five hundred dollars.

21          (b) Any ~~such~~ business applicant whose application is  
22 rejected shall be allowed the return of the application fee,  
23 except that an administrative charge of three hundred dollars for a  
24 license and one hundred dollars for approval of a training course  
25 shall be retained by the department.

1           (c) All fees shall be based on the costs of administering  
2 the Asbestos Control Act. In addition to the fees prescribed in  
3 this section, the department may charge and receive the actual  
4 costs for board, room, and travel by employees in excess of  
5 three hundred dollars, which costs shall not exceed the amounts  
6 allowable in sections 81-1174 to 81-1177. All such fees collected  
7 by the department shall be remitted to the State Treasurer for  
8 credit to the Department of Health and Human Services Regulation  
9 and Licensure Cash Fund. Money credited to the fund pursuant to  
10 this section shall be used by the department for the purpose of  
11 administering the act.

12           (4) At least once a year during the continuation of an  
13 asbestos project, the department shall conduct an onsite inspection  
14 of each licensed business entity's procedures for performing  
15 asbestos projects.

16           (5) The department may enter into agreements or contracts  
17 with public agencies to conduct any inspections required under the  
18 act.

19           (6) The department shall adopt and promulgate rules and  
20 regulations defining work practices for asbestos projects. The  
21 department may provide for alternatives to specific work practices  
22 when the health, safety, and welfare of all classes of asbestos  
23 occupations and the general public are adequately protected.

24           (7) The department may apply for and receive funds from  
25 the federal government and any other public or private entity for

1 the purposes of administering the act.

2 ~~(8) The department shall establish and collect fees~~  
3 ~~for issuance and renewal of certificates as provided in section~~  
4 ~~71-162 for persons certified under section 71-6310. The department~~  
5 ~~shall adopt and promulgate rules and regulations to establish~~  
6 ~~continuing competency requirements for persons certified under~~  
7 ~~the act. Continuing education is sufficient to meet continuing~~  
8 ~~competency requirements. The requirements may also include, but not~~  
9 ~~be limited to, one or more of the continuing competency activities~~  
10 ~~listed in section 71-161.09 which a certified person may select as~~  
11 ~~an alternative to continuing education.~~

12 Sec. 1244. Section 71-6304, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-6304 To qualify for a license, a business entity  
15 shall:

16 (1) Own or demonstrate immediate and continuing access to  
17 and maintain in operable condition modern and effective equipment,  
18 as prescribed by the department, which is designed for use in  
19 asbestos projects;

20 (2) Ensure that each employee or agent of the business  
21 entity who will come into contact with asbestos or who will be  
22 present on an asbestos project is ~~certified~~ licensed as required by  
23 the Asbestos Control Act;

24 (3) Demonstrate to the satisfaction of the department  
25 that the business entity is capable of complying with all

1 applicable requirements, procedures, and standards pertaining to  
2 the asbestos project;

3 (4) Have access to at least one approved asbestos  
4 disposal site for deposit of all asbestos waste that the business  
5 entity will generate during the term of the license; and

6 (5) Meet any other standards which the department may  
7 deem necessary to protect the health, safety, and welfare of all  
8 classes of asbestos occupations and the general public.

9 Sec. 1245. Section 71-6305, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-6305 (1) To apply for a license, a business entity  
12 shall submit an application to the department in the form required  
13 by the department and shall pay the fee prescribed by the  
14 department.

15 (2) The application shall include, but not be limited to:

16 (a) The name, address, and nature of the business entity;

17 (b) A statement that all ~~persons~~ individuals who will  
18 engage in any asbestos project for the licensee business entity  
19 will be ~~certified~~ licensed as required by the Asbestos Control Act;

20 (c) A description of the protective clothing and  
21 respirators that the business entity will use;

22 (d) The name and address of each asbestos disposal site  
23 that the business entity will use;

24 (e) A description of the site decontamination procedures  
25 that the business entity will use;

1           (f) A description of the removal, enclosure,  
2 encapsulation, demolition, dismantling, and maintenance methods  
3 that the business entity will use;

4           (g) A description of the procedures that the business  
5 entity will use for handling waste containing asbestos;

6           (h) A description of the air monitoring procedures that  
7 the business entity will use;

8           (i) A description of the procedures that the business  
9 entity will use in cleaning up the asbestos project;

10          (j) The signature of the chief executive officer of the  
11 business entity or his or her designee; and

12          (k) Such other information as may be necessary for the  
13 efficient administration and enforcement of the act and for the  
14 protection of the health, safety, and welfare of the general public  
15 and all classes of asbestos occupations.

16          Sec. 1246. Section 71-6306, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18          71-6306 (1) A license ~~or certificate~~ of a business entity  
19 shall expire on the first anniversary of its effective date unless  
20 it is renewed for one year as provided in this section.

21          (2) At least thirty days before the license ~~or~~  
22 ~~certificate~~ expires, the department shall send to the licensee  
23 ~~or certificate holder~~ at his or her last-known address a renewal  
24 notice which states:

25          (a) The date on which the current license ~~or certificate~~

1 expires;

2 (b) The date by which the renewal application must be  
3 received by the department for the renewal to be issued and mailed  
4 before the license ~~or certificate~~ expires; and

5 (c) The amount of the renewal fee.

6 (3) Before the license ~~or certificate~~ expires, the  
7 licensee ~~or certificate holder~~ may renew it for an additional  
8 one-year period if the licensee; ~~or certificate holder;~~

9 (a) Is otherwise entitled to be licensed; ~~or~~  
10 ~~certificated;~~

11 (b) Submits a renewal application to the department in  
12 the form required by the department; and

13 (c) Pays the renewal fee prescribed by the department.

14 Sec. 1247. Section 71-6307, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-6307 The licensee or a business entity, whether  
17 excepted from the requirements for licensure by section 71-6302  
18 or whether operating under a waiver, shall keep a record of  
19 each asbestos project and shall make the record available to the  
20 department at any reasonable time. All such records shall be kept  
21 for at least thirty years. Each record shall include:

22 (1) The name, address, and ~~certificate~~ license number of  
23 the individual who supervised the asbestos project and of each  
24 employee or agent who worked on the project;

25 (2) The location and description of the project and the

1 amount of asbestos material that was removed;

2 (3) The starting and completion dates of each instance  
3 of asbestos encapsulation, demolition, dismantling, maintenance, or  
4 removal;

5 (4) A summary of the procedures that were used to comply  
6 with all applicable standards;

7 (5) The name and address of each asbestos disposal site  
8 where the waste containing asbestos was deposited; and

9 (6) Such other information as the department may deem  
10 necessary for the efficient administration and enforcement of the  
11 Asbestos Control Act and for the protection of the health, safety,  
12 and welfare of all classes of asbestos occupations and the general  
13 public.

14 Sec. 1248. Section 71-6309, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-6309 (1) In the event of an emergency in which, in  
17 the opinion of the director, there is created a situation of  
18 present and severe danger which poses an immediate threat to the  
19 public health, safety, and welfare, the director may waive the  
20 requirement for licensure ~~or certification~~ of an individual or  
21 business entity upon application and payment of the fee prescribed  
22 by the department. Such emergency waiver shall be limited to the  
23 time required to take protective measures.

24 (2) The department may, on a case-by-case basis, approve  
25 an alternative to a specific worker protection requirement for



1 an asbestos project if the business entity submits a written  
2 description of the alternative procedure and demonstrates to the  
3 department's satisfaction that the proposed alternative procedure  
4 provides equivalent protection to the health, safety, and welfare  
5 of all classes of asbestos occupations and the general public.

6 (3) If the business entity is not primarily engaged in  
7 asbestos projects, the department may waive the requirement for  
8 a license upon application and payment of the fee prescribed by  
9 the department if worker protection requirements are met or an  
10 alternative procedure is approved pursuant to subsection (2) of  
11 this section and the health, safety, and welfare of the general  
12 public is protected.

13 Sec. 1249. Section 71-6310, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 71-6310 (1) An individual ~~person~~ shall not be eligible to  
16 work on an asbestos project unless the ~~person holds a certificate~~  
17 individual holds the appropriate class of license issued by the  
18 department. Application for a license shall be made as provided in  
19 the Uniform Credentialing Act. An individual shall be credentialed  
20 in the same manner as an individual under subsection (1) of section  
21 21 of this act and shall be subject to the disciplinary provisions  
22 of the act as provided in section 71-6314.

23 (2) The department shall issue the following classes of  
24 ~~certificates;~~ licenses: Worker; supervisor; inspector; management  
25 planner; project monitor; and project designer. To qualify for a

1 ~~certificate~~ license of a particular class, a ~~person~~ an individual  
2 shall have (a) successfully completed a training course approved or  
3 administered by the department, (b) been examined by a physician  
4 within the preceding year and declared by the physician to be  
5 physically capable of working while wearing a respirator, and (c)  
6 passed an examination approved or administered by the department  
7 with at least the minimum score prescribed by the department. An  
8 individual holding such a certificate on December 1, 2008, shall be  
9 deemed to be holding a license under the Uniform Credentialing Act  
10 and the Asbestos Control Act on such date. The certificate holder  
11 may continue to practice under such certificate as a license in  
12 accordance with such acts until the certificate would have expired  
13 under its terms.

14           ~~(3) A certificate or renewal certificate shall be valid~~  
15 ~~for one year from the date of issuance. To qualify for a renewal~~  
16 ~~certificate, the applicant shall meet the requirements of section~~  
17 ~~71-6310.02.~~

18           ~~(4) An application for a certificate, a renewal~~  
19 ~~certificate, or approval shall be submitted to the department on a~~  
20 ~~form prescribed by the department, shall include the applicant's~~  
21 ~~social security number, and shall be accompanied by the prescribed~~  
22 ~~fee.~~

23           ~~(5) (3)~~ (3) As an alternative to the qualifications in  
24 subdivision (2)(a) of this section, a ~~person~~ an individual shall  
25 have completed a fully accredited United States Environmental

1 Protection Agency Asbestos Hazard Emergency Response Act of ~~1976~~  
2 1986 training program or the ~~person~~ individual shall be currently  
3 accredited by a United States Environmental Protection Agency fully  
4 accredited state asbestos model accreditation plan adopted pursuant  
5 to 40 C.F.R. 763. In addition to the alternative qualifications,  
6 the ~~person~~ individual shall successfully complete a four-hour  
7 course approved by the department on Nebraska law, rules, and  
8 regulations and shall pass an examination thereon which shall be  
9 approved and may be administered by the department.

10 ~~(6)~~ (4) The department may issue a limited ~~certificate~~  
11 license to a project designer or management planner who does not  
12 intend to enter any management plan, project design, or asbestos  
13 project worksite. An applicant for a limited ~~certificate~~ license  
14 under this subsection shall not be required to comply with the  
15 requirements of subdivision (2)(b) of this section. A holder  
16 of a limited ~~certificate~~ license shall not enter any management  
17 plan, project design, or asbestos project worksite. The limitation  
18 shall be endorsed upon the ~~certificate~~. license. Violation of the  
19 limitation shall be grounds for disciplinary action against the  
20 ~~certificate~~ license pursuant to section 71-6314. An individual  
21 holding a limited certificate on December 1, 2008, shall be deemed  
22 to be holding a limited license under the Uniform Credentialing  
23 Act and the Asbestos Control Act on such date. The certificate  
24 holder may continue to practice under such limited certificate as  
25 a limited license in accordance with such acts until the limited

1 certificate would have expired under its terms.

2           ~~(7)~~ (5) The department shall approve instructors of  
3 training courses. To qualify for approval, an individual shall have  
4 (a) graduated from high school or obtained a general educational  
5 development certificate or equivalent document as determined by the  
6 department, (b) successfully completed an approved four-hour course  
7 on Nebraska law, rules, and regulations, and (c) at least one year  
8 of actual work experience in the asbestos industry.

9           Sec. 1250. Section 71-6310.01, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11           71-6310.01 (1) The department shall approve training  
12 courses for each classification of asbestos occupation. Applicants  
13 for course approval shall meet the requirements for each course and  
14 shall submit an application on forms provided by the department  
15 together with the prescribed fee. Approved course providers shall  
16 use only approved instructors to teach each training course. The  
17 department shall conduct onsite inspections of the training courses  
18 offered by course providers.

19           (2) In order to be approved by the department, an initial  
20 inspector training course shall meet the following requirements:  
21 A three-day training course including lectures, demonstrations, a  
22 field trip, at least four hours of hands-on training, individual  
23 respirator-fit testing, and a written examination; background  
24 information on asbestos and potential health effects related to  
25 exposure to asbestos; functions, qualifications, and the role of

1 inspectors; legal liabilities and defenses; understanding building  
2 systems; public, employee, and occupant relations; preinspection  
3 planning and review of previous inspection records and inspecting  
4 for friable and nonfriable asbestos-containing material and  
5 assessing the condition of asbestos-containing material; bulk  
6 sampling and documentation of asbestos; inspector respiratory  
7 protection and personal protective equipment; and record keeping  
8 and inspection report writing, regulatory review, and course  
9 review. The written examination shall be approved and may be  
10 administered by the department and shall be composed of questions  
11 covering subjects dealing with the course content. The passing  
12 score shall be determined by the department.

13 (3) In order to be approved by the department, an  
14 initial management planner training course shall meet the following  
15 requirements: A three-day inspector training course as outlined  
16 in subsection (2) of this section and a two-day management  
17 planner training course including lectures, demonstrations, and a  
18 written examination; course overview; evaluation and interpretation  
19 of survey results, hazard assessment, and legal implications;  
20 evaluation and selection of control options; role of other  
21 professionals; developing an operations and maintenance plan; and  
22 regulatory review, record keeping for the management planner,  
23 assembling and submitting the management plan, financing abatement  
24 actions, and course review. The written examination shall be  
25 approved and may be administered by the department and shall be

1 composed of questions covering subjects dealing with the course  
2 content. The passing score shall be determined by the department.

3 (4) In order to be approved by the department, an  
4 initial project designer training course shall meet the following  
5 requirements: A three-day training course including lectures,  
6 demonstrations, a field trip, and a written examination; background  
7 information on asbestos and potential health effects related to  
8 asbestos exposure; overview of abatement construction projects;  
9 safety system design specifications, employee personal protective  
10 equipment, and additional safety hazards; fiber aerodynamics and  
11 control, designing abatement solutions, final clearance process,  
12 and budgeting and cost estimation; writing abatement specifications  
13 and preparing abatement drawings; contract preparation and  
14 administration and legal liabilities and defenses; replacement of  
15 asbestos with asbestos-free substitutes; role of other consultants;  
16 occupied buildings; and relevant federal, state, and local  
17 regulatory requirements and course review. The written examination  
18 shall be approved and may be administered by the department and  
19 shall be composed of questions covering subjects dealing with  
20 the course content. The passing score shall be determined by the  
21 department.

22 (5) In order to be approved by the department,  
23 an initial project monitor training course shall meet the  
24 following requirements: A five-day asbestos training course  
25 including lectures, demonstrations, at least six hours of

1 hands-on training, and a written examination; roles and  
2 responsibilities of the project monitor; characteristics of  
3 asbestos and asbestos-containing materials; federal and state  
4 asbestos regulation overview; understanding building construction  
5 and building systems; asbestos abatement contracts, specifications,  
6 and drawings; response actions and abatement practices; asbestos  
7 abatement equipment; personal protective equipment; air monitoring  
8 strategies; safety and health issues other than asbestos;  
9 conducting visual inspections; final clearance process; legal  
10 responsibilities and liabilities of project monitors; record  
11 keeping and report writing; 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 (6) In order to be approved by the department, an  
17 initial supervisor training course shall meet the following  
18 requirements: A five-day asbestos training course including  
19 lectures, demonstrations, at least fourteen hours of hands-on  
20 training, individual respirator-fit testing, and a written  
21 examination; the physical characteristics of asbestos and  
22 asbestos-containing materials and potential health effects related  
23 to asbestos exposure; employee personal protective equipment,  
24 state-of-the-art work practices, personal hygiene, additional  
25 safety hazards, medical monitoring, and air monitoring; relevant

1 federal, state, and local regulatory requirements; respiratory  
2 protection programs, medical surveillance programs, and insurance  
3 and liability issues; record keeping for asbestos abatement  
4 projects and supervisory techniques for asbestos abatement  
5 activity; contract specifications; and course review. The written  
6 examination shall be approved and may be administered by the  
7 department and shall be composed of questions covering subjects  
8 dealing with the course content. The passing score shall be  
9 determined by the department.

10 (7) In order to be approved by the department, an initial  
11 worker training course shall meet the following requirements:  
12 A four-day training course including lectures, demonstrations,  
13 at least fourteen hours of hands-on training, individual  
14 respirator-fit testing, and a written examination; physical  
15 characteristics of asbestos, potential health effects related  
16 to asbestos exposure, employee personal protective equipment,  
17 state-of-the-art work practices, personal hygiene, additional  
18 safety hazards, medical monitoring, and air monitoring; relevant  
19 federal, state, and local regulatory requirements, procedures, and  
20 standards; establishment of respiratory protection programs; and  
21 course review. The written examination shall be approved and may be  
22 administered by the department and shall be composed of questions  
23 covering subjects dealing with the course content. The passing  
24 score shall be determined by the department.

25 (8) In order to be approved by the department, a course



1 on Nebraska law, rules, and regulations required by subsection  
2 ~~(5)~~ (3) of section 71-6310 shall consist of at least four hours  
3 of training on Nebraska law, rules, and regulations relating  
4 to asbestos. The written examination shall be approved and may  
5 be administered by the department. The passing score shall be  
6 determined by the department.

7           Sec. 1251. Section 71-6310.02, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9           71-6310.02 (1) Any person certified individual licensed  
10 in any of the asbestos occupations prescribed in section 71-6310,  
11 as a condition for certificate license renewal, shall complete  
12 continuing competency activities as required by the department  
13 ~~pursuant to section 71-6303~~ and shall be examined and approved  
14 by a physician as prescribed for initial applicants in section  
15 71-6310. The ~~certificate holder~~ licensee shall submit evidence as  
16 required by the department of satisfaction of the requirements of  
17 this section.

18           (2) The department shall adopt and promulgate rules and  
19 regulations to establish the continuing competency requirements  
20 pursuant to the Uniform Credentialing Act. Continuing education  
21 is sufficient to meet continuing competency requirements. The  
22 requirements may also include, but not be limited to, one or  
23 more of the continuing competency activities listed in section 45  
24 of this act which a licensee may select as an alternative to  
25 continuing education.

1           Sec. 1252. Section 71-6310.03, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           71-6310.03 If a project designer or a project monitor is  
4 selected by the structure's owner or operator for an asbestos  
5 project, the project designer and project monitor shall be  
6 responsible for the following:

7           (1) Project designers shall prepare plans and  
8 specifications for business entities conducting asbestos projects.  
9 The plans and specifications shall be consistent with the criteria,  
10 requirements, and best interests of the structure's owner or  
11 operator and the requirements of the Asbestos Control Act.  
12 The project designer shall represent the owner or operator and  
13 ensure that these objectives are achieved by the business entity  
14 conducting the project throughout the project;

15           (2) Prior to preparing plans and specifications for  
16 any renovation project, a project designer shall ensure that any  
17 equipment items and any structural items of a structure affected  
18 by the renovation were inspected and assessed by a ~~certified~~  
19 licensed inspector. Prior to preparing plans and specifications  
20 for any demolition, a project designer shall ensure that the  
21 entire structure was inspected and assessed by a ~~certified~~ licensed  
22 inspector. No dismantling or salvage operation shall begin before  
23 the inspection and assessment is completed;

24           (3) If a project designer or project monitor is selected  
25 by the owner or operator of the structure on or in which the

1 asbestos project is conducted, he or she shall be independent  
2 of the business entity selected to perform the asbestos project.  
3 A private or public business entity which uses its own trained  
4 and ~~certified~~ licensed employees to perform asbestos projects may  
5 also use its own employees who are trained and ~~certified~~ licensed  
6 as project designers or project monitors to design and monitor  
7 projects conducted on or in its own structures; and

8 (4) If a project designer or project monitor is selected  
9 by the structure's owner or operator for an asbestos project, the  
10 project designer or project monitor shall oversee the activities  
11 of a business entity conducting an asbestos project to ensure that  
12 the requirements of the Asbestos Control Act and the rules and  
13 regulations adopted and promulgated pursuant to the act are met.  
14 Prior to allowing an asbestos project site to be returned to normal  
15 occupancy or function, a project designer or project monitor shall  
16 ensure that all waste, debris, and residue have been removed from  
17 the site in compliance with the act and the rules and regulations  
18 adopted and promulgated pursuant to the act.

19 Sec. 1253. The department shall establish and collect  
20 fees for issuance and renewal of licenses as provided in sections  
21 51 to 57 of this act for individuals licensed under section  
22 71-6310.

23 Sec. 1254. Section 71-6312, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-6312 (1) A ~~person~~ An individual or business entity

1 which engages in an asbestos project without a valid license,  
2 except as otherwise provided in the Asbestos Control Act, shall be  
3 assessed a civil penalty of not less than five thousand dollars  
4 nor more than twenty-five thousand dollars for the first offense  
5 and not less than twenty-five thousand dollars nor more than one  
6 hundred thousand dollars for a second or subsequent offense. Each  
7 day a violation continues shall constitute a separate offense.

8 (2) ~~A person~~ An individual who engages in an asbestos  
9 occupation without a valid ~~certificate,~~ license, except as  
10 otherwise provided in the act, shall be assessed a civil penalty  
11 of not less than five hundred dollars nor more than five thousand  
12 dollars for the first offense and not less than one thousand  
13 dollars nor more than fifteen thousand dollars for the second or  
14 subsequent offense. Each day a violation continues shall constitute  
15 a separate offense.

16 (3) Any business entity which knowingly engages in an  
17 asbestos project but which uses employees who do not hold a  
18 ~~certificate~~ license shall be assessed a civil penalty of not less  
19 than five hundred dollars nor more than five thousand dollars for  
20 the first offense and not less than five thousand dollars nor more  
21 than ten thousand dollars for a second or subsequent offense. Each  
22 day a violation continues shall constitute a separate offense.

23 (4) The civil penalties prescribed in subsections (1),  
24 (2), and (3) of this section shall be assessed in a civil action  
25 brought for such purpose by the Attorney General in the district

1 court of the county in which the violation occurred.

2 (5) ~~A person~~ An individual or business entity which has  
3 been assessed a civil penalty under this section and subsequently  
4 engages in an asbestos project or an asbestos occupation without a  
5 valid ~~certificate or~~ license or using employees who do not hold a  
6 ~~certificate,~~ license, except as otherwise provided in the Asbestos  
7 Control Act:

8 (a) For a first offense, shall be guilty of a Class I  
9 misdemeanor; and

10 (b) For a second or subsequent offense, shall be guilty  
11 of a Class IV felony.

12 Sec. 1255. Section 71-6313, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-6313 The Attorney General may institute an action in  
15 the name of the state for an injunction or other process against  
16 any business entity or ~~person~~ individual to restrain or prevent  
17 any violation of the Asbestos Control Act or of any rules and  
18 regulations adopted and promulgated pursuant to such act.

19 Sec. 1256. Section 71-6314, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-6314 (1) When the department determines that a  
22 licensee business entity that holds a license has violated the  
23 Asbestos Control Act or any rule and regulation adopted and  
24 promulgated pursuant to the act, the department may, rather  
25 than initially instituting disciplinary proceedings pursuant to

1 subsection (2) of this section, within seven working days after a  
2 finding of a violation is made, issue a citation to the licensee.  
3 The citation shall be served upon the licensee personally or  
4 by certified mail. Each citation shall specifically describe  
5 the nature of the violation and identify the statute, rule, or  
6 regulation violated. When a citation is served upon the licensee,  
7 the licensee shall have seven working days to remedy the violation.  
8 If such violation has not been remedied at the end of such time,  
9 the department may take such other action as is deemed appropriate  
10 pursuant to the Asbestos Control Act and the Administrative  
11 Procedure Act.

12 (2) Independent of the provisions of subsection (1)  
13 of this section, a license~~, certificate,~~ or approval issued  
14 pursuant to the Asbestos Control Act may be denied, refused  
15 renewal, suspended, or revoked when the applicant~~, or licensee,~~  
16 ~~or certificate holder~~ violates any of the provisions of the  
17 act, fraudulently or deceptively obtains or attempts to obtain a  
18 license~~, certificate,~~ or approval, fails at any time to meet the  
19 qualifications for a license~~, certificate,~~ or approval, fails to  
20 comply with rules and regulations adopted and promulgated pursuant  
21 to the act, fails to meet any applicable state standard for  
22 asbestos projects, or employs or permits an ~~uncertified person~~  
23 unlicensed individual to work in an asbestos occupation. An  
24 individual shall be subject to the reporting, investigatory, and  
25 disciplinary provisions of sections 76 to 85, 106, 109 to 126, and

1 137 to 139 of this act for any of the grounds for disciplinary  
2 action found in the Uniform Credentialing Act and for any violation  
3 of the Asbestos Control Act or the rules and regulations adopted  
4 and promulgated under the acts.

5 (3) In addition to the disciplinary actions provided for  
6 in subsection (2) of this section, the department may assess a  
7 civil penalty of not less than one thousand dollars nor more than  
8 twenty-five thousand dollars for each offense committed by any  
9 business entity licensed under the act ~~act~~ Asbestos Control Act or not  
10 less than one hundred dollars nor more than five thousand dollars  
11 for each offense committed by a ~~person certified~~ an individual  
12 licensed under the act for violation of the act or any rule or  
13 regulation adopted and promulgated pursuant thereto. Each day a  
14 violation continues shall constitute a separate offense.

15 (4) Whenever the department determines to deny, refuse  
16 to renew, suspend, or revoke a license, ~~certificate,~~ or approval  
17 or assess a civil penalty, it shall send to the applicant,  
18 or licensee, ~~or certificate holder~~ a notice setting forth the  
19 particular reasons for the determination. The denial, suspension,  
20 refusal to renew, revocation, or assessment of a civil penalty  
21 shall become final thirty days after the mailing of the notice  
22 unless the applicant, ~~certificate holder,~~ or licensee gives written  
23 notice to the department of a desire for a hearing. If a hearing  
24 is requested, the applicant, ~~certificate holder,~~ or licensee shall  
25 be given a hearing before the department and shall have the right

1 to present such evidence as may be proper. On the basis of such  
2 evidence, the determination shall be affirmed, modified, or set  
3 aside, and a copy of such decision setting forth the findings  
4 of fact and the particular reasons upon which such decision was  
5 based shall be sent by certified mail to the applicant, ~~certificate~~  
6 ~~holder~~, or licensee. The decision shall become a final decision  
7 of the department and may be appealed, and the appeal shall be in  
8 accordance with the Administrative Procedure Act.

9 (5) Hearings held pursuant to this section shall be held  
10 in accordance with the Administrative Procedure Act and the rules  
11 and regulations adopted and promulgated by the department under  
12 such act.

13 (6) Any civil penalty assessed and unpaid under the  
14 Asbestos Control Act shall constitute a debt to the State of  
15 Nebraska which may be collected in the manner of a lien foreclosure  
16 or sued for and recovered in any proper form of action in the name  
17 of the State of Nebraska in the district court of the county in  
18 which the violator resides or owns property. The department shall,  
19 within thirty days of receipt, ~~transmit~~ remit any collected civil  
20 penalty to the State Treasurer for ~~deposit in the permanent school~~  
21 ~~fund.~~ distribution in accordance with Article VII, section 5, of  
22 the Constitution of Nebraska.

23 Sec. 1257. (1) All rules and regulations adopted prior to  
24 the operative date of this section under the Asbestos Control Act  
25 shall continue to be effective to the extent not in conflict with



1 the changes made by this legislative bill until revised, amended,  
2 repealed, or nullified pursuant to law.

3 (2) All licenses, certificates, or other forms of  
4 approval issued prior to the operative date of this section in  
5 accordance with the Asbestos Control Act shall remain valid as  
6 issued for purposes of the changes made by this legislative bill  
7 unless revoked or their effectiveness is otherwise terminated  
8 pursuant to law.

9 (3) Any suit, action, or other proceeding, judicial or  
10 administrative, which was lawfully commenced prior to the operative  
11 date of this section under the Asbestos Control Act shall be  
12 subject to the provisions of the act as they existed prior to the  
13 operative date of this section.

14 Sec. 1258. Section 71-6317, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-6317 Sections 71-6301 to 71-6317 and sections 1253 and  
17 1257 of this act shall be known and may be cited as the Asbestos  
18 Control Act.

19 Sec. 1259. Section 71-6318, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-6318 Sections 71-6318 to 71-6331.01 and section 1284  
22 of this act shall be known and may be cited as the Residential  
23 Lead-Based Paint Professions Certification Practice Act.

24 Sec. 1260. Section 71-6318.01, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

1                   71-6318.01   (1)   The   Residential   Lead-Based   Paint  
2   Professions ~~Certification~~ Practice Act contains procedures and  
3   requirements for the accreditation of training programs, procedures  
4   and requirements for the ~~certification~~ licensure of individuals and  
5   firms engaged in lead-based paint activities, and work practice  
6   standards for performing lead-based paint activities. The act  
7   also requires that, except as otherwise provided in the act, all  
8   lead-based paint activities be performed by ~~certified~~ licensed  
9   individuals and firms.

10                   (2) The act applies to all individuals and firms who are  
11   engaged in lead-based paint activities, except persons who perform  
12   lead-based paint activities within residential dwellings that they  
13   own, unless the residential dwelling is occupied by a person or  
14   persons other than the owner or the owner's immediate family while  
15   these activities are being performed or unless a child residing in  
16   the building has been identified as having an elevated blood-lead  
17   level.

18                   (3) While the act establishes specific requirements for  
19   performing lead-based paint activities should they be undertaken,  
20   nothing in the act requires that the owner or occupant undertake  
21   any particular lead-based paint activity.

22                   Sec. 1261. Section 71-6319.01, Reissue Revised Statutes  
23   of Nebraska, is amended to read:

24                   71-6319.01 For purposes of the Residential Lead-Based  
25   Paint Professions ~~Certification~~ Practice Act, the definitions found

1 in sections 71-6319.02 to 71-6319.40 apply.

2 Sec. 1262. Section 71-6319.02, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4 71-6319.02 Abatement or abatement project means any  
5 measure or set of measures designed to permanently eliminate  
6 lead-based paint hazards. Abatement includes, but is not limited  
7 to:

8 (1) The removal of lead-based paint and lead-contaminated  
9 dust, the permanent enclosure or encapsulation of lead-based paint,  
10 the replacement of lead-painted surfaces or fixtures, and the  
11 removal or covering of lead-contaminated soil;

12 (2) All preparation, cleanup, disposal, and  
13 post-abatement clearance testing activities associated with such  
14 measures; and

15 (3) (a) Projects for which there is a written contract or  
16 other documentation which provides that a firm or an individual  
17 will be conducting activities in or to a residential dwelling  
18 or child-occupied facility that (i) will result in the permanent  
19 elimination of lead-based paint hazards or (ii) are designed to  
20 permanently eliminate lead-based paint hazards and are described in  
21 subdivision (1) or (2) of this section;

22 (b) Projects resulting in the permanent elimination  
23 of lead-based paint hazards conducted by firms or individuals  
24 ~~certified~~ licensed in accordance with the ~~department~~ Residential  
25 Lead-Based Paint Professions Practice Act unless such projects are

1 excluded from the definition of abatement or abatement project  
2 under this section;

3 (c) Projects resulting in the permanent elimination of  
4 lead-based paint hazards conducted by firms or individuals who  
5 or which, through company name or promotional literature, hold  
6 themselves out to be in the business of performing lead-based paint  
7 activities unless such projects are excluded from the definition of  
8 abatement or abatement project under this section; or

9 (d) Projects resulting in the permanent elimination of  
10 lead-based paint hazards that are conducted in response to state or  
11 local abatement orders.

12 Abatement does not include renovation, remodeling,  
13 landscaping, or other activities when such activities are not  
14 designed to permanently eliminate lead-based paint hazards but  
15 instead are designed to repair, restore, or remodel a structure  
16 or dwelling even if such activities may incidentally result in  
17 a reduction or elimination of lead-based paint hazards. Abatement  
18 does not include interim controls, operations, and maintenance  
19 activities or other measures and activities designed to temporarily  
20 but not permanently reduce lead-based paint hazards.

21 Sec. 1263. Section 71-6319.04, Reissue Revised Statutes  
22 of Nebraska, is amended to read:

23 71-6319.04 ~~Certified~~ Licensed abatement worker means an  
24 individual who has been trained by an accredited training program  
25 and ~~certified~~ licensed by the department to perform abatement

1 projects.

2           Sec. 1264. Section 71-6319.05, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           71-6319.05 ~~Certified~~ Licensed firm means a firm to which  
5 the department has issued a ~~certificate of approval~~ license.

6           Sec. 1265. Section 71-6319.06, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8           71-6319.06 ~~Certified~~ Licensed inspector means an  
9 individual who has been trained by an accredited training program  
10 and ~~certified~~ licensed by the department to conduct inspections and  
11 sample for the presence of lead in dust and soil for the purposes  
12 of abatement clearance testing.

13           Sec. 1266. Section 71-6319.07, Reissue Revised Statutes  
14 of Nebraska, is amended to read:

15           71-6319.07 ~~Certified~~ Licensed project designer means an  
16 individual who has been trained by an accredited training program  
17 and ~~certified~~ licensed by the department to prepare abatement  
18 project designs, occupant protection plans, and abatement reports.

19           Sec. 1267. Section 71-6319.08, Reissue Revised Statutes  
20 of Nebraska, is amended to read:

21           71-6319.08 ~~Certified~~ Licensed risk assessor means an  
22 individual who has been trained by an accredited training  
23 program and ~~certified~~ licensed by the department to conduct risk  
24 assessments and to sample for the presence of lead in dust and soil  
25 for the purposes of abatement clearance testing.

1           Sec. 1268. Section 71-6319.09, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           71-6319.09 ~~Certified~~ Licensed supervisor means an  
4 individual who has been trained by an accredited training program  
5 and ~~certified~~ licensed by the department to supervise and conduct  
6 abatement projects and to prepare occupant protection plans and  
7 abatement reports.

8           Sec. 1269. Section 71-6319.10, Reissue Revised Statutes  
9 of Nebraska, is amended to read:

10          71-6319.10 ~~Certified~~ Licensed visual lead-hazard advisor  
11 means an individual who has been trained by an accredited training  
12 program and ~~certified~~ licensed by the department to conduct a  
13 visual lead-hazard screen.

14          Sec. 1270. Section 71-6319.29, Reissue Revised Statutes  
15 of Nebraska, is amended to read:

16          71-6319.29 Lead-based paint profession means one of  
17 the specific types or categories of lead-based paint activities  
18 identified in the Residential Lead-Based Paint Professions  
19 ~~Certification~~ Practice Act for which individuals may receive  
20 training from an accredited training program and become ~~certified~~  
21 licensed by the department.

22          Sec. 1271. Section 71-6319.40, Reissue Revised Statutes  
23 of Nebraska, is amended to read:

24          71-6319.40 Visual lead-hazard screen means a visual  
25 assessment to determine the presence of deteriorated paint or other

1 potential sources of lead-based paint hazards in a residential  
2 dwelling or child-occupied facility. Visual lead-hazard screen  
3 includes a written report explaining the results and limitations of  
4 the assessment. The written report will be provided to the person  
5 requesting the inspection, the residents of the dwelling, and  
6 the owner of the dwelling or child-occupied facility. A ~~certified~~  
7 licensed visual lead-hazard advisor shall retain a copy of the  
8 report in his or her files for three years.

9           Sec. 1272. Section 71-6320, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-6320 Except as otherwise provided in the Residential  
12 Lead-Based Paint Professions ~~Certification~~ Practice Act, a firm  
13 shall not engage in an abatement project unless the firm holds a  
14 ~~certificate~~ license for that purpose.

15           Sec. 1273. Section 71-6321, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-6321 (1) The department shall administer the  
18 Residential Lead-Based Paint Professions ~~Certification~~ Practice  
19 Act.

20           (2) The department shall adopt and promulgate rules and  
21 regulations necessary to carry out such act. The department shall  
22 adopt state standards governing abatement projects and may adopt  
23 or incorporate part or all of any federal standards in such state  
24 standards so long as state standards are no less stringent than  
25 federal standards.

1           (3) The department shall prescribe fees based upon the  
2 following schedule:

3           (a) For an annual firm ~~certificate or certificate~~ license  
4 or license renewal, not less than two hundred dollars or more than  
5 five hundred dollars;

6           (b) For accreditation of a training program, not less  
7 than one thousand dollars or more than two thousand five hundred  
8 dollars, which fee shall include one onsite inspection if such  
9 inspection is required by the department;

10          (c) For accreditation of a review course or a course on  
11 Nebraska law, rules, and regulations, not less than five hundred  
12 dollars or more than one thousand dollars, which fee shall include  
13 one onsite inspection if such inspection is required by the  
14 department;

15          (d) For onsite inspections other than initial  
16 inspections, not less than one hundred fifty dollars or more than  
17 two hundred fifty dollars. Such fees shall not be assessed for more  
18 than three onsite inspections per year during the period an actual  
19 abatement project is in progress; and

20          (e) For a project review of each abatement project of a  
21 ~~certified~~ licensed firm, not less than two hundred dollars or more  
22 than five hundred dollars.

23          Any ~~such~~ business applicant whose application is rejected  
24 shall be allowed the return of the application fee, except that an  
25 administrative charge of one hundred dollars for a firm ~~certificate~~



1 license and for accreditation of a training program shall be  
2 retained by the department.

3 All fees shall be based on the costs of administering  
4 the act. In addition to the fees prescribed in this section, the  
5 department may charge and receive the actual costs for board, room,  
6 and travel by employees in excess of three hundred dollars, which  
7 costs shall not exceed the amounts allowable in sections 81-1174  
8 to 81-1177. All such fees collected by the department shall be  
9 remitted to the State Treasurer for credit to the Department of  
10 Health and Human Services Regulation and Licensure Cash Fund. Money  
11 credited to the fund pursuant to this section shall be used by the  
12 department for the purpose of administering the act.

13 (4) At least once a year during the continuation of an  
14 abatement project the department shall conduct an onsite inspection  
15 of each ~~certified~~ licensed firm's procedures for performing  
16 abatement projects.

17 (5) The department may enter into agreements or contracts  
18 with public agencies to conduct any inspections required under the  
19 act if such agencies have the appropriate ~~certification~~ licensure  
20 or accreditation as described in the act.

21 (6) The department shall adopt and promulgate rules and  
22 regulations defining work practices for abatement projects, for  
23 the ~~certification~~ licensure of lead-based paint professions, for  
24 the accreditation of training programs, for the accreditation of  
25 training program providers, for the dissemination of prerenovation

1 information to homeowners and occupants, for the facilitation  
2 of compliance with federal lead-based paint hazard control grant  
3 programs, and for the implementation of lead-based paint compliance  
4 monitoring and enforcement activities. The department may provide  
5 for alternatives to specific work practices when the health,  
6 safety, and welfare of all classes of lead-based paint professions  
7 and the general public are adequately protected.

8 (7) The department may apply for and receive funds from  
9 the federal government and any other public or private entity  
10 for the purposes of administering the act. Any funds applied for,  
11 received, or used by the department or any political subdivision  
12 from the federal government or any public entity may be used only  
13 to abate lead-based paint hazards and for the administration of  
14 lead-based paint programs which address health and environmental  
15 hazards caused by lead-based paint.

16 ~~(8) The department shall establish and collect~~  
17 ~~certification fees and recertification fees as provided in~~  
18 ~~section 71-162 for individuals certified under section 71-6326.~~  
19 ~~The department shall adopt and promulgate rules and regulations~~  
20 ~~to establish continuing competency requirements for persons~~  
21 ~~certified under the act. Continuing education is sufficient to~~  
22 ~~meet continuing competency requirements. The requirements may also~~  
23 ~~include, but not be limited to, one or more of the continuing~~  
24 ~~competency activities listed in section 71-161.09 which a certified~~  
25 ~~person may select as an alternative to continuing education.~~

1           Sec. 1274. Section 71-6322, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-6322 To qualify for a ~~certificate~~, license, a firm  
4 shall:

5           (1) Own or demonstrate immediate and continuing access to  
6 and maintain in operable condition modern and effective equipment,  
7 as prescribed by the department, which is designed for use in  
8 abatement projects;

9           (2) Ensure that each employee or agent of the firm who  
10 will participate in an abatement project is ~~certified~~ licensed  
11 as required by the Residential Lead-Based Paint Professions  
12 ~~Certification~~ Practice Act;

13           (3) Demonstrate to the satisfaction of the department  
14 that the firm is capable of complying with all applicable  
15 requirements, procedures, and standards pertaining to abatement  
16 projects; and

17           (4) Meet any other standards which the department may  
18 deem necessary to protect the health, safety, and welfare of all  
19 classes of lead-based paint professions and the general public.

20           Sec. 1275. Section 71-6323, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           71-6323 (1) To apply for a ~~certificate~~, license, a  
23 firm shall submit an application to the department in the form  
24 required by the department and shall pay the fee prescribed by the  
25 department.

1 (2) The application shall include, but not be limited to:

2 (a) The name, address, and nature of the firm;

3 (b) A statement that all individuals who will engage  
4 in any abatement project for the ~~certificate holder~~ firm will be  
5 ~~certified~~ licensed as required by the Residential Lead-Based Paint  
6 Professions ~~Certification~~ Practice Act;

7 (c) A description of the removal, enclosure,  
8 encapsulation, demolition, dismantling, and maintenance methods  
9 that the firm will use;

10 (d) A description of the procedures that the firm will  
11 use for handling lead-containing waste;

12 (e) A description of the procedures that the firm will  
13 use in cleaning up the abatement project;

14 (f) The signature of the chief executive officer of the  
15 firm or his or her designee; and

16 (g) Such other information as may be necessary for the  
17 efficient administration and enforcement of the act and for the  
18 protection of the health, safety, and welfare of all classes of  
19 lead-based paint professions and the general public.

20 (3) A firm holding a certificate on December 1, 2008,  
21 shall be deemed to be holding a license under the Residential  
22 Lead-Based Paint Professions Practice Act and the Uniform  
23 Credentialing Act on such date. The certificate holder may continue  
24 to practice under such certificate as a license in accordance with  
25 such acts until the certificate would have expired under its terms.

1           Sec. 1276. Section 71-6326, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-6326 (1) An individual shall not be eligible to work  
4 on an abatement project unless the individual holds a ~~certificate~~  
5 license issued by the department.

6           (2) The department shall issue the following classes  
7 of ~~certificates~~ licenses: Worker, supervisor, inspector, risk  
8 assessor, visual lead-hazard advisor, elevated blood-lead level  
9 inspector, and project designer. To qualify for a ~~certificate~~  
10 license of a particular class, an individual shall have (a)  
11 successfully completed a training course approved or administered  
12 by the department, (b) passed an examination approved or  
13 administered by the department with at least the minimum score  
14 prescribed by the department, and (c) for the classes of worker and  
15 supervisor, been examined by a physician within the preceding year  
16 and declared by the physician to be physically capable of working  
17 while wearing a respirator.

18           (3) An individual holding such a certificate on December  
19 1, 2008, shall be deemed to be holding a license under the  
20 Residential Lead-Based Paint Professions Practice Act and the  
21 Uniform Credentialing Act on such date. The certificate holder  
22 may continue to practice under such certificate as a license in  
23 accordance with such acts until the certificate would have expired  
24 under its terms.

25           ~~(3) A certificate or renewal certificate shall be valid~~

1 ~~for three years from the date of issuance. To qualify for a renewal~~  
2 ~~certificate, the applicant shall meet the requirements of section~~  
3 ~~71-6327.~~

4 ~~(4) Applications for certificates and renewal~~  
5 ~~certificates shall be submitted to the department on forms~~  
6 ~~prescribed by the department and shall be accompanied by the~~  
7 ~~prescribed fee.~~

8 Sec. 1277. Section 71-6327, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 71-6327 Any individual certified (1) An applicant for  
11 a license in any of the lead-based paint professions prescribed  
12 in the Residential Lead-Based Paint Professions Certification Act,  
13 as a condition for certificate renewal, shall complete continuing  
14 competency activities as required by the department pursuant to  
15 section 71-6321. Practice Act shall be made as provided in the  
16 Uniform Credentialing Act. An individual shall be credentialed in  
17 the same manner as an individual under subsection (1) of section 21  
18 of this act and shall be subject to the disciplinary provisions of  
19 the Uniform Credentialing Act as provided in section 71-6331. The  
20 department shall establish and collect license and renewal fees as  
21 provided in sections 51 to 57 of this act.

22 (2) The department shall adopt and promulgate rules and  
23 regulations to establish the continuing competency requirements  
24 pursuant to the Uniform Credentialing Act. Continuing education  
25 is sufficient to meet continuing competency requirements. The

1 requirements may also include, but not be limited to, one or  
2 more of the continuing competency activities listed in section 45  
3 of this act which a licensee may select as an alternative to  
4 continuing education.

5           Sec. 1278. Section 71-6328, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-6328 No state agency, county, city, village, school  
8 district, or other political subdivision shall accept a bid in  
9 connection with any abatement project from a firm which does not  
10 hold a ~~certificate~~ license from the department at the time the bid  
11 is submitted.

12           Sec. 1279. Section 71-6328.01, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14           71-6328.01 Any individual or firm who or which has been  
15 issued a license, a certificate, or accreditation for training  
16 in another state which (1) has a licensure, certification,  
17 or accreditation program approved by the federal Environmental  
18 Protection Agency, (2) has licensure, accreditation, certification,  
19 education, and experience requirements substantially equal to  
20 or greater than those adopted by this state, and (3) grants  
21 equal licensure, certification, and accreditation privileges to  
22 individuals and firms ~~certified~~ licensed or accredited and residing  
23 in this state may be issued an equivalent ~~certificate~~ license or  
24 accreditation in Nebraska upon terms and conditions determined by  
25 the department. The terms and conditions may reduce the time period

1 ~~established under subsection (3) of section 71-6326~~ the license is  
2 valid and the fee requirements.

3           Sec. 1280. Section 71-6329, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-6329 (1) A firm which engages in an abatement project  
6 without a valid ~~certificate~~ license as provided in the Residential  
7 Lead-Based Paint Professions ~~Certification~~ Practice Act shall be  
8 assessed a civil penalty of not less than five thousand dollars  
9 nor more than twenty-five thousand dollars for the first offense  
10 and not less than twenty-five thousand dollars nor more than one  
11 hundred thousand dollars for a second or subsequent offense. Each  
12 day a violation continues shall constitute a separate offense.

13           (2) An individual who engages in a lead-based paint  
14 profession without a valid ~~certificate~~ license shall be assessed a  
15 civil penalty of not less than five hundred dollars nor more than  
16 five thousand dollars for the first offense and not less than one  
17 thousand dollars nor more than fifteen thousand dollars for the  
18 second or subsequent offense. Each day a violation continues shall  
19 constitute a separate offense.

20           (3) Any firm which knowingly engages in an abatement  
21 project but which uses employees who do not hold ~~certificates~~  
22 licenses shall be assessed a civil penalty of not less than five  
23 thousand dollars nor more than twenty-five thousand dollars for the  
24 first offense and not less than twenty-five thousand dollars nor  
25 more than one hundred thousand dollars for a second or subsequent



1 offense. Each day a violation continues shall constitute a separate  
2 offense.

3 (4) Any firm conducting an accredited training program  
4 which knowingly engages in issuing fraudulent ~~certificates~~ licenses  
5 or fails to conduct its training program in accordance with  
6 its accreditation shall, in addition to having its accreditation  
7 revoked, pay a civil penalty of not less than five thousand dollars  
8 nor more than twenty-five thousand dollars.

9 (5) The civil penalties prescribed in subsections (1),  
10 (2), (3), and (4) of this section shall be assessed in a civil  
11 action brought for such purpose by the Attorney General or the  
12 county attorney in the district court of the county in which the  
13 violation occurred.

14 (6) An individual or firm which has been assessed a  
15 civil penalty under this section and subsequently engages in  
16 an abatement project or a lead-based paint profession without  
17 a valid ~~certificate~~ license or using employees who do not hold  
18 ~~certificates,~~ licenses, conducts training programs without being  
19 accredited by the department, or issues fraudulent ~~certificates,~~  
20 licenses, except as otherwise provided in the act:

21 (a) For a first offense, shall be guilty of a Class I  
22 misdemeanor; and

23 (b) For a second or subsequent offense, shall be guilty  
24 of a Class IV felony.

25 Sec. 1281. Section 71-6330, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-6330 Upon the request of the department, the Attorney  
3 General or appropriate county attorney shall institute without  
4 delay an action in the name of the state for proceedings  
5 appropriate against any individual or firm to restrain or prevent  
6 any violation of the Residential Lead-Based Paint Professions  
7 ~~Certification Practice Act~~ Practice Act or of any rules and regulations adopted  
8 and promulgated pursuant to the act.

9           Sec. 1282. Section 71-6331, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-6331 (1) An application or a ~~certificate~~ license  
12 under the Residential Lead-Based Paint Professions ~~Certification~~  
13 Practice Act may be denied, refused renewal, suspended, or revoked  
14 if the applicant or ~~certificate holder~~ licensee violates any of  
15 the provisions of the act, fraudulently or deceptively obtains  
16 or attempts to obtain a ~~certificate,~~ license, fails at any time  
17 to meet the qualifications for a ~~certificate,~~ license, fails to  
18 comply with rules and regulations adopted and promulgated pursuant  
19 to the act, fails to meet any applicable state standard for  
20 abatement projects, or employs or permits an ~~uncertified~~ unlicensed  
21 individual to work in a lead-based paint profession. An individual  
22 shall be subject to the reporting, investigatory, and disciplinary  
23 provisions of sections 76 to 85, 106, 109 to 126, and 137 to 139  
24 of this act for any of the grounds for disciplinary action found  
25 in the Uniform Credentialing Act and for any violation of the

1 Residential Lead-Based Paint Professions Practice Act or the rules  
2 and regulations adopted and promulgated under the acts.

3 (2) In addition to the disciplinary actions provided for  
4 in subsection (1) of this section, the department may assess a  
5 civil penalty of not less than one thousand dollars nor more than  
6 three thousand dollars for each offense committed by any firm  
7 ~~certified~~ licensed under the act ~~or not less than one hundred~~  
8 ~~dollars nor more than five thousand dollars for each offense~~  
9 ~~committed by an individual certified under the act~~ for violation of  
10 the act or any rule or regulation adopted and promulgated pursuant  
11 thereto. Each day a violation continues shall constitute a separate  
12 offense.

13 (3) Whenever the department determines to deny, refuse  
14 to renew, suspend, or revoke a ~~certificate~~ firm license or assess  
15 a civil penalty on a firm, it shall send to the applicant or  
16 ~~certificate holder~~ licensee a notice setting forth the particular  
17 reasons for the determination. The denial, suspension, refusal  
18 to renew, revocation, or assessment of a civil penalty shall  
19 become final thirty days after the mailing of the notice unless  
20 the applicant or ~~certificate holder~~ licensee gives written notice  
21 to the department of a desire for a hearing. If a hearing is  
22 requested, the applicant or ~~certificate holder~~ licensee shall be  
23 given a hearing before the department and shall have the right  
24 to present such evidence as may be proper. On the basis of such  
25 evidence, the determination shall be affirmed, modified, or set

1 aside, and a copy of such decision setting forth the findings of  
2 fact and the particular reasons upon which such decision was based  
3 shall be sent by certified mail to the applicant or ~~certificate~~  
4 ~~holder~~, licensee. The decision shall become a final decision of the  
5 department and may be appealed. The appeal shall be in accordance  
6 with the Administrative Procedure Act.

7 (4) Hearings held pursuant to this section shall be held  
8 in accordance with the Administrative Procedure Act.

9 (5) Any civil penalty assessed and unpaid under the  
10 Residential Lead-Based Paint Professions ~~Certification~~ Practice Act  
11 shall constitute a debt to the State of Nebraska which may be  
12 collected in the manner of a lien foreclosure or sued for and  
13 recovered in any proper form of action in the name of the State of  
14 Nebraska in the district court of the county in which the violator  
15 resides or owns property. The department shall, within thirty  
16 days of receipt, remit any collected civil penalty to the State  
17 Treasurer for ~~credit to the permanent school fund~~, distribution  
18 in accordance with Article VII, section 5, of the Constitution of  
19 Nebraska.

20 Sec. 1283. Section 71-6331.01, Reissue Revised Statutes  
21 of Nebraska, is amended to read:

22 71-6331.01 Sections 25-21,254 to 25-21,264 do not apply  
23 to the Residential Lead-Based Paint Professions ~~Certification~~  
24 Practice Act.

25 Sec. 1284. (1) All rules and regulations adopted prior to

1 the operative date of this section under the Residential Lead-Based  
2 Paint Professions Certification Act shall continue to be effective  
3 under the Residential Lead-Based Paint Professions Practice Act  
4 to the extent not in conflict with the changes made by this  
5 legislative bill until revised, amended, repealed, or nullified  
6 pursuant to law.

7 (2) All licenses, certificates, or other forms of  
8 approval issued prior to the operative date of this section  
9 in accordance with the Residential Lead-Based Paint Professions  
10 Certification Act shall remain valid as issued for purposes of  
11 the changes made by this legislative bill in the Residential  
12 Lead-Based Paint Professions Practice Act unless revoked or their  
13 effectiveness is otherwise terminated pursuant to law.

14 (3) Any suit, action, or other proceeding, judicial  
15 or administrative, which was lawfully commenced prior to the  
16 operative date of this section under the Residential Lead-Based  
17 Paint Professions Certification Act shall be subject to the  
18 provisions of the act as they existed prior to the operative  
19 date of this section.

20 Sec. 1285. Section 71-6721, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 71-6721 For purposes of the Medication Aide Act:

23 (1) Ability to take medications independently means the  
24 individual is physically capable of (a) the act of taking or  
25 applying a dose of a medication, (b) taking or applying the

1 medication according to a specific prescription or recommended  
2 protocol, and (c) observing and monitoring himself or herself for  
3 desired effect, side effects, interactions, and contraindications  
4 of the medication and taking appropriate actions based upon those  
5 observations;

6 (2) Administration of medication includes, but is not  
7 limited to (a) providing medications for another person according  
8 to the five rights, (b) recording medication provision, and (c)  
9 observing, monitoring, reporting, and otherwise taking appropriate  
10 actions regarding desired effects, side effects, interactions, and  
11 contraindications associated with the medication;

12 (3) Caretaker means a parent, foster parent, family  
13 member, friend, or legal guardian who provides care for an  
14 individual;

15 (4) Child care facility means an entity or a person  
16 licensed under the Child Care Licensing Act;

17 (5) Competent individual means an adult who is the  
18 ultimate recipient of medication and who has the capability and  
19 capacity to make an informed decision about taking medications;

20 (6) Department means the Department of Health and Human  
21 Services Regulation and Licensure;

22 (7) Direction and monitoring means the acceptance  
23 of responsibility for observing and taking appropriate action  
24 regarding any desired effects, side effects, interactions, and  
25 contraindications associated with the medication by a (a) competent

1 individual for himself or herself, (b) caretaker, or (c) licensed  
2 health care professional;

3 (8) Facility means a health care facility or health care  
4 service as defined in section 71-413 or 71-415 or an entity or  
5 person certified by the Department of Health and Human Services  
6 Regulation and Licensure or the Department of Health and Human  
7 Services Finance and Support to provide home and community-based  
8 services;

9 (9) Five rights means getting the right drug to the right  
10 recipient in the right dosage by the right route at the right time;

11 (10) Health care professional means an individual for  
12 whom administration of medication is included in the scope of  
13 practice;

14 (11) Home means the residence of an individual but does  
15 not include any facility or school;

16 (12) Intermediate care facility for the mentally retarded  
17 has the definition found in section 71-421;

18 (13) Informed decision means a decision made knowingly,  
19 based upon capacity to process information about choices and  
20 consequences, and made voluntarily;

21 (14) Medication means any prescription or nonprescription  
22 drug intended for treatment or prevention of disease or to affect  
23 body function in humans;

24 (15) Medication aide means an individual who is listed on  
25 the medication aide registry operated by the Department of Health

1 and Human Services Regulation and Licensure;

2 (16) Nonprescription drug has the definition found in  
3 section ~~71-1,142,~~ 925 of this act;

4 (17) Nursing home means any facility or a distinct part  
5 of any facility that provides care as defined in sections 71-420,  
6 71-422, 71-424, and 71-429;

7 (18) Prescription drug has the definition of prescription  
8 drug or device as found in section ~~71-1,142,~~ 937 of this act;

9 (19) Provision of medication means the component of the  
10 administration of medication that includes giving or applying a  
11 dose of a medication to an individual and includes helping an  
12 individual in giving or applying such medication to himself or  
13 herself;

14 (20) PRN means an administration scheme in which a  
15 medication is not routine, is taken as needed, and requires  
16 assessment for need and effectiveness;

17 (21) Recipient means a person who is receiving  
18 medication;

19 (22) Routine, with reference to medication, means the  
20 frequency of administration, amount, strength, and method are  
21 specifically fixed; and

22 (23) School means an entity or person meeting the  
23 requirements for a school set by Chapter 79.

24 Sec. 1286. Section 71-6726, Reissue Revised Statutes of  
25 Nebraska, is amended to read:



1           71-6726 (1) To register as a medication aide, an  
2 individual shall (a) have successfully completed the requirements  
3 in section 71-6725, (b) be at least eighteen years of age, (c)  
4 be of good moral character, (d) file an application with the  
5 department, and (e) pay the applicable fee.

6           (2) An applicant or medication aide shall report to the  
7 department, in writing, any conviction for a felony or misdemeanor.  
8 A conviction is not a disqualification for placement on the  
9 registry unless it relates to the standards identified in ~~such~~  
10 section 71-6725 or it reflects on the moral character of the  
11 applicant or medication aide.

12           (3) An applicant or medication aide may report any pardon  
13 or setting aside of a conviction to the department. If a pardon or  
14 setting aside has been obtained, the conviction for which it was  
15 obtained shall not be maintained on the Medication Aide Registry.

16           Sec. 1287. Section 71-6727, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-6727 (1) The department shall list each medication  
19 aide registration in the Medication Aide Registry as  
20 a Medication ~~Aide-Nursing Home,~~ Aide-40-Hour, Medication  
21 ~~Aide-Intermediate Care Facility for the Mentally Retarded,~~  
22 ~~Medication Aide-Assisted-Living,~~ Aide-20-Hour, or Medication Aide.  
23 A listing in the registry shall be valid for the term of the  
24 registration and upon renewal unless such listing is refused  
25 renewal or is removed as provided in section 71-6730.

1           (2) The registry shall contain the following information  
2 on each individual who meets the conditions in section 71-6726: (a)  
3 The individual's full name; (b) information necessary to identify  
4 individuals, including those qualified to provide medications  
5 in nursing homes, intermediate care facilities for the mentally  
6 retarded, or assisted-living facilities; (c) any conviction of a  
7 felony or misdemeanor reported to the department; and (d) other  
8 information as the department may require by rule and regulation.

9           Sec. 1288. Section 71-6728, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-6728 Registration as a medication aide shall be  
12 renewed ~~triennially~~ biennially based upon competency. The  
13 department may prescribe by rule and regulation how a medication  
14 aide can show competency for purposes of renewal. Payment of  
15 the applicable fee shall be a condition of renewal. After the  
16 operative date of this section, any registration that is renewed  
17 shall expire two years after the date the registration would have  
18 expired if it had not been renewed. A medication aide who provides  
19 medication aide services prior to registration or after the date  
20 the registration expires shall be subject to the civil penalty  
21 prescribed in section 98 of this act.

22           Sec. 1289. Section 71-6732, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-6732 Except as provided by section 71-6731, an  
25 applicant or registrant who desires to contest an action or to

1 further contest an affirmed or modified action shall do so in the  
2 manner provided in the Administrative Procedure Act for contested  
3 cases. If the Director of Regulation and Licensure is not a  
4 physician, a contested action shall be decided by the chief medical  
5 officer. The hearings on a petition for judicial review of any  
6 final decision regarding an action for an alleged violation shall  
7 be set for hearing at the earliest possible date. The times for  
8 pleadings and hearings in such action shall be set by the judge of  
9 the court with the object of securing a decision at the earliest  
10 possible time.

11 Sec. 1290. Section 71-6734, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-6734 The department shall establish and collect fees  
14 for credentialing activities under the Medication Aide Act as  
15 provided in ~~section 71-162.~~ sections 51 to 57 of this act.

16 Sec. 1291. Section 71-6742, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-6742 Medication aides are eligible to participate in  
19 the Licensee Assistance Program as prescribed by section 75 of  
20 this act. ~~Any person who, on July 1, 1999, is approved by the~~  
21 ~~department to act as a care staff member or medication assistant~~  
22 ~~shall automatically and without payment of any fee be registered as~~  
23 ~~a medication aide.~~

24 Sec. 1292. Section 71-7001, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   71-7001 For purposes of sections 71-7001 to 71-7013:

2                   (1) Department means the Department of Health and Human  
3 Services;

4                   (2) Mammogram means the X-ray resulting from mammography;

5                   (3) Mammography means radiological examination of the  
6 breast for the purpose of obtaining a mammogram which enables a  
7 physician to assess the presence, size, location, and extent of  
8 cancerous or potentially cancerous tissue;

9                   (4) Mammogram supplier means a public, private,  
10 for-profit, or not-for-profit agency or health care facility that  
11 provides mammography;

12                   (5) Screening mammogram means the X-ray resulting from  
13 screening mammography;

14                   (6) Screening mammography means radiological examination  
15 of the breast of asymptomatic women for the early detection of  
16 breast cancer, which examination includes (a) a cranio-caudal and  
17 a medial lateral oblique view of each breast and (b) a licensed  
18 radiologist's interpretation of the results of the procedure.  
19 Screening mammography does not include diagnostic mammography,  
20 additional projections required for lesion definition, breast  
21 ultrasound, or any breast interventional procedure;

22                   (7) Medical radiographer means a person licensed pursuant  
23 to ~~subsection (1) of section 71-3515.01,~~ section 653 of this  
24 act, other than a licensed practitioner or a licensed physician  
25 assistant, who practices medical radiography under the supervision

1 of a licensed practitioner;

2 (8) False negative result means a mammogram which  
3 indicates no possible cancer when a cancer exists;

4 (9) False positive result means a mammogram which  
5 indicates a possible cancer when none exists;

6 (10) Professional component means the interpretation  
7 of a screening mammogram and a written report regarding the  
8 interpretation provided by a mammogram supplier; and

9 (11) Technical component means a screening mammogram and  
10 all other services provided by a mammogram supplier.

11 Sec. 1293. Section 71-7427, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 71-7427 Sections 71-7427 to 71-7463 and sections 1297 to  
14 1300 of this act shall be known and may be cited as the Wholesale  
15 Drug Distributor Licensing Act.

16 Sec. 1294. Section 71-7436, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 71-7436 Emergency medical reasons means the alleviation  
19 of a temporary shortage by transfers of prescription drugs between  
20 any of the following: (1) Holders of pharmacy licenses, (2) health  
21 care practitioner facilities as defined in section 71-414, (3)  
22 hospitals as defined in section 71-419, and (4) practitioners as  
23 defined in section ~~71-1,142.~~ 934 of this act.

24 Sec. 1295. Section 71-7454, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

1                   71-7454 (1) No wholesale drug distributor, manufacturer,  
2 or pharmacy shall knowingly purchase or receive any prescription  
3 drug from any source other than a person or entity licensed under  
4 the Wholesale Drug Distributor Licensing Act except transfers for  
5 emergency medical reasons, the gross dollar value of which shall  
6 not exceed five percent of the total prescription drug sales  
7 revenue of the transferor or transferee holder of a pharmacy  
8 license or practitioner as defined in section ~~71-1,142~~ 934 of this  
9 act during the immediately preceding calendar year, and except as  
10 otherwise provided in the act.

11                   (2) A wholesale drug distributor may receive returns or  
12 exchanges of prescription drugs from a pharmacy, chain pharmacy  
13 warehouse, health care practitioner facility as defined in section  
14 71-414, or hospital as defined in section 71-419 pursuant to  
15 the terms and conditions agreed upon between such wholesale  
16 drug distributor and such pharmacy, chain pharmacy warehouse,  
17 health care practitioner facility, or hospital. Such returns and  
18 exchanges shall not be subject to sections 71-7455 to 71-7457. A  
19 wholesale drug distributor shall not receive from a pharmacy, chain  
20 pharmacy warehouse, health care practitioner facility, or hospital  
21 an amount or quantity of a prescription drug greater than the  
22 amount or quantity that was originally sold by the wholesale drug  
23 distributor to such pharmacy, chain pharmacy warehouse, health care  
24 practitioner facility, or hospital.

25                   (3) A manufacturer or wholesale drug distributor shall

1 furnish prescription drugs only to persons licensed by the  
2 department and shall verify such licensure before furnishing  
3 prescription drugs to a person not known to the manufacturer  
4 or wholesale drug distributor.

5 (4) Prescription drugs furnished by a manufacturer or  
6 wholesale drug distributor shall be delivered only to the premises  
7 listed on the license, except that a manufacturer or wholesale drug  
8 distributor may furnish prescription drugs to a person licensed  
9 by the department or his or her agent at the premises of the  
10 manufacturer or wholesale drug distributor if:

11 (a) The identity and authorization of the recipient is  
12 properly established; and

13 (b) This method of receipt is employed only to meet  
14 the prescription drug needs of a particular patient of the person  
15 licensed by the department.

16 (5) Prescription drugs may be furnished to a hospital  
17 pharmacy receiving area. Receipt of such drugs shall be  
18 acknowledged by written receipt signed by a pharmacist or other  
19 authorized personnel. The receipt shall contain the time of  
20 delivery and the type and quantity of the prescription drug  
21 received. Any discrepancy between the signed receipt and the type  
22 and quantity of prescription drug actually received shall be  
23 reported by the receiving authorized pharmacy personnel to the  
24 delivering manufacturer or wholesale drug distributor by the next  
25 business day after the delivery to the pharmacy receiving area.

1           (6) A manufacturer or wholesale drug distributor shall  
2 only accept payment or allow the use of credit to establish an  
3 account for the purchase of prescription drugs from the owner  
4 or owners of record, the chief executive officer, or the chief  
5 financial officer listed on the license of a person or entity  
6 legally authorized to receive prescription drugs. Any account  
7 established for the purchase of prescription drugs shall bear the  
8 name of such licensee.

9           Sec. 1296. Section 71-7457, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           71-7457 (1) A wholesale drug distributor license may  
12 be denied, refused renewal, suspended, limited, or revoked by  
13 the Director of Regulation and Licensure when the director finds  
14 that the applicant or licensee has violated any provisions of  
15 the Wholesale Drug Distributor Licensing Act or of the rules and  
16 regulations adopted and promulgated under the act or has committed  
17 any acts or offenses set forth in section ~~71-147, 71-148, or 78~~  
18 or 79 of this act or section 71-7459. All actions and proceedings  
19 shall be carried out as specified in sections ~~71-147 to 71-161.19-~~  
20 77 to 115 of this act.

21           (2) For purposes of this section, applicant or licensee  
22 includes, but is not limited to, the board of directors, chief  
23 executive officer, and other officers of the applicant or the  
24 entity to which the license is issued and the manager of each site  
25 if more than one site is located in this state.



1           Sec. 1297. Every wholesale drug distributor licensed  
2 under the Wholesale Drug Distributor Licensing Act shall be subject  
3 to and comply with sections 124 to 126 of this act relating to  
4 reporting and investigations.

5           Sec. 1298. (1) A health care facility licensed under the  
6 Health Care Facility Licensure Act or a peer review organization  
7 or professional association relating to a profession regulated  
8 under the Wholesale Drug Distributor Licensing Act shall report  
9 to the department, on a form and in the manner specified by  
10 the department, any facts known to the facility, organization, or  
11 association, including, but not limited to, the identity of the  
12 credential holder and consumer, when the facility, organization, or  
13 association:

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

18           (b) Takes action adversely affecting the privileges  
19 or membership of a licensee in such facility, organization, or  
20 association due to alleged incompetence, professional negligence,  
21 unprofessional conduct, or physical, mental, or chemical  
22 impairment.

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

25           (2) A report made to the department under this section

1 shall be confidential. The facility, organization, association, or  
2 person making such report shall be completely immune from criminal  
3 or civil liability of any nature, whether direct or derivative,  
4 for filing a report or for disclosure of documents, records, or  
5 other information to the department under this section. Nothing in  
6 this subsection shall be construed to require production of records  
7 protected by section 25-12,123, 71-2048, or 71-7903 or patient  
8 safety work product under the Patient Safety Improvement Act except  
9 as otherwise provided in any of such sections or such act.

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

18 (4) For purposes of this section, the department shall  
19 accept reports made to it under the Nebraska Hospital-Medical  
20 Liability Act or in accordance with national practitioner data bank  
21 requirements of the federal Health Care Quality Improvement Act of  
22 1986, as the act existed on January 1, 2007, and may require a  
23 supplemental report to the extent such reports do not contain the  
24 information required by the department.

25 Sec. 1299. (1) Unless such knowledge or information

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

6 (a) Any insurer having knowledge of any violation of any  
7 provision of the Wholesale Drug Distributor Licensing Act governing  
8 the profession of the person being reported whether or not such  
9 person is licensed shall report the facts of such violation as  
10 known to such insurer to the department; and

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

15 (2) Such reporting shall be done on a form and in the  
16 manner specified pursuant to sections 130 and 131 of this act. Such  
17 reports shall be subject to sections 132 to 136 of this act.

18 Sec. 1300. The clerk of any county or district court  
19 in this state shall report to the department the conviction  
20 of any person licensed by the department under the Wholesale  
21 Drug Distributor Licensing Act of any felony or of any  
22 misdeemeanor involving the use, sale, distribution, administration,  
23 or dispensing of a controlled substance, alcohol or chemical  
24 impairment, or substance abuse and shall also report a judgment  
25 against any such licensee arising out of a claim of professional

1 liability. The Attorney General or city or county prosecutor  
2 prosecuting any such criminal action and plaintiff in any such  
3 civil action shall provide the court with information concerning  
4 the license of the defendant or party. Notice to the department  
5 shall be filed within thirty days after the date of conviction or  
6 judgment in a manner agreed to by the director and the State Court  
7 Administrator.

8           Sec. 1301. Section 71-7702, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-7702 For purposes of the Health Care Facility-Provider  
11 Cooperation Act:

12           (1) Community planning shall mean a plan which identifies  
13 (a) health-care-related resources, facilities, and services within  
14 the community, (b) the health care needs of the community, (c)  
15 gaps in services, (d) duplication of services, and (e) ways to meet  
16 health care needs;

17           (2) Cooperative agreement shall mean an agreement among  
18 two or more health care facilities or other providers for  
19 the sharing, allocation, or referral of patients, personnel,  
20 instructional programs, equipment, support services and facilities,  
21 or medical, diagnostic, or laboratory facilities or procedures or  
22 other services traditionally offered or purchased by health care  
23 facilities or other providers;

24           (3) Department shall mean the Department of Health and  
25 Human Services Regulation and Licensure;

1 (4) Health care facility shall mean:

2 (a) Any facility required to be licensed under the Health  
3 Care Facility Licensure Act or, if in another state, licensed in  
4 such state; and

5 (b) Any parent of a health care facility, health  
6 care facility subsidiary, or health care facility affiliate that  
7 provides medical or medically related diagnostic and laboratory  
8 services or engages in ancillary activities supporting those  
9 services; and

10 (5) Provider shall mean any person licensed to provide  
11 health care services under ~~Chapter 71~~ the Uniform Credentialing Act  
12 and engaged in the practice of medicine and surgery, osteopathic  
13 medicine, pharmacy, optometry, podiatry, physical therapy, or  
14 nursing.

15 Sec. 1302. Section 71-7901, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-7901 Any health clinic as defined in section 71-416  
18 and any other organization or association of health practitioners  
19 or providers licensed pursuant to ~~Chapter 71~~ the Uniform  
20 Credentialing Act may cause a peer review committee to be formed  
21 and operated or may contract with an outside peer review committee  
22 for the purpose of reviewing, from time to time, the medical care  
23 provided by such health clinic, organization, or association and  
24 for assisting individual practitioners or providers practicing in  
25 such clinics, organizations, or associations in maintaining and

1 providing a high standard of medical care.

2           Sec. 1303. Section 71-8228, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-8228 Regional medical director means a physician  
5 licensed under the Uniform ~~Licensing Law~~ Credentialing Act who  
6 shall report to the Director of Regulation and Licensure and carry  
7 out the regional plan for his or her region.

8           Sec. 1304. Section 71-8231, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-8231 State trauma medical director means a physician  
11 licensed under the Uniform ~~Licensing Law~~ Credentialing Act who  
12 reports to the Director of Regulation and Licensure and carries out  
13 duties under the Statewide Trauma System Act.

14           Sec. 1305. Section 71-8253, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-8253 (1) If there are conflicts between the Statewide  
17 Trauma System Act and the Emergency Medical Services Practice  
18 Act pertaining to out-of-hospital emergency medical services, the  
19 Emergency Medical Services Practice Act shall control.

20           (2) Nothing in the Statewide Trauma System Act shall  
21 limit a patient's right to choose the physician, hospital,  
22 facility, rehabilitation center, specialty level burn or pediatric  
23 trauma center, or other provider of health care services.

24           Sec. 1306. Section 71-8402, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           71-8402 For purposes of sections 71-8401 to 71-8407:

2           (1) Medical records means a provider's record of a  
3 patient's health history and treatment rendered;

4           (2) Mental health medical records means medical records  
5 or parts thereof created by or under the direction or supervision  
6 of a licensed psychiatrist, a licensed psychologist, or a mental  
7 health practitioner licensed or certified pursuant to ~~sections~~  
8 ~~71-1,295 to 71-1,338,~~ the Mental Health Practice Act;

9           (3) Patient includes a patient or former patient;

10          (4) Patient request or request of a patient includes the  
11 request of a patient's guardian or other authorized representative;  
12 and

13          (5) Provider means a physician, psychologist,  
14 chiropractor, dentist, hospital, clinic, and any other licensed or  
15 certified health care practitioner or entity.

16          Sec. 1307. Section 71-8709, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18          71-8709 Provider means a person that is either:

19          (1) A facility licensed under the Health Care Facility  
20 Licensure Act; or

21          (2) A health care professional licensed under the ~~Nurse~~  
22 ~~Practice Act or the Uniform Licensing Law.~~ Uniform Credentialing  
23 Act.

24          Sec. 1308. Section 77-2704.09, Revised Statutes  
25 Cumulative Supplement, 2006, is amended to read:

1                   77-2704.09 (1) Sales and use taxes shall not be imposed  
2 on the gross receipts from the sale, lease, or rental of and the  
3 storage, use, or other consumption in this state of insulin and  
4 the following when sold for a patient's use under a prescription  
5 and which are of the type eligible for coverage under the medical  
6 assistance program established pursuant to the Medical Assistance  
7 Act: Drugs, not including over-the-counter drugs; durable medical  
8 equipment; home medical supplies; prosthetic devices; oxygen;  
9 oxygen equipment; and mobility enhancing equipment.

10                   (2) For purposes of this section:

11                   (a) Drug means a compound, substance, preparation, and  
12 component of a compound, substance, or preparation, other than food  
13 and food ingredients, dietary supplements, or alcoholic beverages:

14                   (i) Recognized in the official United States  
15 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United  
16 States, or official National Formulary, and any supplement to any  
17 of them;

18                   (ii) Intended for use in the diagnosis, cure, mitigation,  
19 treatment, or prevention of disease; or

20                   (iii) Intended to affect the structure or any function of  
21 the body;

22                   (b) Durable medical equipment means equipment which can  
23 withstand repeated use, is primarily and customarily used to serve  
24 a medical purpose, generally is not useful to a person in the  
25 absence of illness or injury, is appropriate for use in the home,



1 and is not worn in or on the body. Durable medical equipment  
2 includes repair and replacement parts for such equipment;

3 (c) Home medical supplies means supplies primarily and  
4 customarily used to serve a medical purpose which are appropriate  
5 for use in the home and are generally not useful to a person in the  
6 absence of illness or injury;

7 (d) Mobility enhancing equipment means equipment which  
8 is primarily and customarily used to provide or increase the  
9 ability to move from one place to another, which is not generally  
10 used by persons with normal mobility, and which is appropriate  
11 for use either in a home or a motor vehicle. Mobility enhancing  
12 equipment includes repair and replacement parts for such equipment.  
13 Mobility enhancing equipment does not include any motor vehicle or  
14 equipment on a motor vehicle normally provided by a motor vehicle  
15 manufacturer;

16 (e) Over-the-counter drug means a drug that contains a  
17 label that identifies the product as a drug as required by 21  
18 C.F.R. 201.66, as such regulation existed on January 1, 2003.  
19 The over-the-counter drug label includes a drug facts panel or  
20 a statement of the active ingredients with a list of those  
21 ingredients contained in the compound, substance, or preparation;

22 (f) Oxygen equipment means oxygen cylinders, cylinder  
23 transport devices including sheaths and carts, cylinder studs and  
24 support devices, regulators, flowmeters, tank wrenches, oxygen  
25 concentrators, liquid oxygen base dispensers, liquid oxygen

1 portable dispensers, oxygen tubing, nasal cannulas, face masks,  
2 oxygen humidifiers, and oxygen fittings and accessories;

3 (g) Prescription means an order, formula, or recipe  
4 issued in any form of oral, written, electronic, or other means of  
5 transmission by a duly licensed practitioner authorized under ~~(i)~~  
6 ~~the Advanced Practice Registered Nurse Act prior to July 1, 2007,~~  
7 ~~and the Certified Registered Nurse Anesthetist Act, the Nebraska~~  
8 ~~Certified Nurse Midwifery Practice Act, or the Nurse Practitioner~~  
9 ~~Act on and after July 1, 2007, (ii) Chapter 71, article 1, or (iii)~~  
10 ~~sections 71-4701 to 71-4719, the Uniform Credentialing Act; and~~

11 (h) Prosthetic devices means a replacement, corrective,  
12 or supportive device worn on or in the body to artificially  
13 replace a missing portion of the body, prevent or correct physical  
14 deformity or malfunction, or support a weak or deformed portion  
15 of the body, and includes any supplies used with such device and  
16 repair and replacement parts.

17 Sec. 1309. Section 77-3504, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 77-3504 Household income means the total federal adjusted  
20 gross income, as defined in the Internal Revenue Code, plus (1)  
21 any Nebraska adjustments increasing the total federal adjusted  
22 gross income, (2) any interest or dividends received by the owner  
23 regarding obligations of the State of Nebraska or any political  
24 subdivision, authority, commission, or instrumentality thereof to  
25 the extent excluded in the computation of gross income for federal

1 income tax purposes, and (3) any social security or railroad  
2 retirement benefit to the extent excluded in the computation of  
3 gross income for federal income tax purposes, of the claimant  
4 and spouse, and any additional owners who are natural persons and  
5 who occupy the homestead, for the taxable year of the claimant  
6 immediately prior to the year for which the claim for exemption  
7 is made, less all medical expenses actually incurred and paid by  
8 the claimant, his or her spouse, or any owner-occupant which are  
9 in excess of four percent of household income calculated prior to  
10 the deduction for medical expenses. For purposes of this section,  
11 medical expenses means the costs of health insurance premiums and  
12 the costs of goods and services purchased from a person licensed  
13 under ~~Chapter 71, article 1 or 47,~~ the Uniform Credentialing Act  
14 or a health care facility or health care service licensed under  
15 the Health Care Facility Licensure Act for purposes of restoring  
16 or maintaining health, including insulin and prescription medicine,  
17 but not including nonprescription medicine.

18           Sec. 1310. Section 80-325, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           80-325 The administrator of the Nebraska veterans homes  
21 shall be a licensed nursing home administrator licensed under  
22 ~~sections 71-6053 to 71-6068.~~ the Nursing Home Administrator  
23 Practice Act. Qualified applicants for the position of  
24 administrator who were discharged or otherwise separated with a  
25 characterization of honorable from the armed forces of the United

1 States during a period of war as defined in section 80-401.01 shall  
2 be given a preference over other applicants.

3 Sec. 1311. Section 81-2,281, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 81-2,281 (1) The department shall enforce the Nebraska  
6 Pure Food Act. The department may contract with any political  
7 subdivision or state agency it deems qualified to conduct any or  
8 all regulatory functions authorized pursuant to the act except  
9 those functions relating to the issuance, suspension, or revocation  
10 of permits or any order of probation. Holders of permits issued  
11 pursuant to the act who are regularly inspected by political  
12 subdivisions under contract with the department shall be exempt  
13 from the inspection fees prescribed in section 81-2,270 if such  
14 holders pay license or inspection fees to the political subdivision  
15 performing the inspections.

16 (2) It shall be the responsibility of the regulatory  
17 authority to inspect food establishments and food processing plants  
18 as often as required by the act. An inspection of a salvage  
19 operation shall be performed at least once every three hundred  
20 sixty-five days of operation. Additional inspections shall be  
21 performed as often as is necessary for the efficient and effective  
22 enforcement of the act.

23 (3) All inspections conducted pursuant to the act shall  
24 be performed by persons who are registered environmental health  
25 specialists or trainees as defined in section ~~71-3702-~~ 525 or 526

1 of this act.

2 (4) Duly authorized personnel of the regulatory authority  
3 after showing proper identification shall have access at all  
4 reasonable times to food establishments, food processing plants,  
5 or salvage operations required by the act to obtain a permit  
6 to perform authorized regulatory functions. Such functions shall  
7 include, but not be limited to, inspections, checking records  
8 maintained in the establishment or other locations to obtain  
9 information pertaining to food and supplies purchased, received,  
10 used, sold, or distributed, copying and photographing violative  
11 conditions, and examining and sampling food. When samples are  
12 taken, the inspectors shall pay or offer to pay for samples  
13 taken. The authorized personnel shall also have access to the  
14 records of salvage operations pertaining to distressed salvageable  
15 and salvaged merchandise purchased, received, used, sold, or  
16 distributed.

17 (5) Regulatory activities performed by a political  
18 subdivision or state agency under contract shall conform with the  
19 provisions of the act and such activities shall have the same  
20 effect as those performed by the department. Any interference with  
21 the regulatory authority's duty to inspect shall be an interference  
22 with the department's duties for the purposes of section 81-2,273.

23 Sec. 1312. Section 81-657, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 81-657 (1) If a person with brain or head injury is

1 not admitted to a hospital within the state but is treated in  
2 this state in the office of a physician or psychologist licensed  
3 under the Uniform ~~Licensing Law~~, Credentialing Act, the treating  
4 physician or psychologist shall report the brain or head injury  
5 to the department within thirty days after identification of  
6 the person sustaining such injury. Each treating physician or  
7 psychologist shall be required to report each brain or head injury  
8 only one time.

9 (2) Each hospital and each rehabilitation center located  
10 within a hospital in the State of Nebraska shall annually report to  
11 the department a brain or head injury which results in admission or  
12 treatment.

13 (3) The report shall contain the following information  
14 about the person sustaining the injury:

15 (a) Name;

16 (b) Social security number;

17 (c) Date of birth;

18 (d) Gender;

19 (e) Residence;

20 (f) Date of the injury;

21 (g) Final diagnosis or classification of the injury  
22 according to the International Classification of Disease, Clinical  
23 Modification Coding System, as adopted by the department;

24 (h) Cause of the injury and, if practicable, whether the  
25 injury resulted from an accident involving the use of alcohol;

- 1 (i) Place or site of occurrence of the injury;  
2 (j) Identification of the reporting source;  
3 (k) Dispensation upon discharge;  
4 (l) Payor source; and  
5 (m) Any additional information the department can  
6 demonstrate is reasonable in order to implement the purposes stated  
7 in section 81-653.

8 Sec. 1313. Section 81-6,102, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 81-6,102 (1) If a resident of this state is diagnosed  
11 with Parkinson's disease or a related movement disorder within this  
12 state in the office of a physician licensed under the Uniform  
13 ~~Licensing Law~~, Credentialing Act, the physician shall file a report  
14 of the diagnosis and pertinent information with the department  
15 within sixty days after the diagnosis.

16 (2) An individual resident of this state who has been  
17 diagnosed with Parkinson's disease or a related movement disorder  
18 by a licensed physician may file a report with the department  
19 providing relevant information. The department shall provide for  
20 validation of individual reports.

21 (3) A report filed under this section shall contain the  
22 following information about the person diagnosed with Parkinson's  
23 disease or a related movement disorder:

- 24 (a) Name;  
25 (b) Social security number;

- 1 (c) Date of birth;  
2 (d) Gender;  
3 (e) Address at time of diagnosis;  
4 (f) Current address;  
5 (g) Date of diagnosis;  
6 (h) Physician;  
7 (i) Identification of reporting source; and  
8 (j) Any additional information the department  
9 demonstrates is reasonable to implement the Parkinson's Disease  
10 Registry Act.

11 Sec. 1314. Section 81-3201, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 81-3201 (1) The Governor shall appoint a Director of  
14 Regulation and Licensure for the Department of Health and Human  
15 Services Regulation and Licensure who shall (a) have administrative  
16 experience in an executive capacity and some special training  
17 in public health work and (b) be either a graduate of a  
18 recognized school of medicine and licensed to practice medicine  
19 and surgery in the State of Nebraska or a person with a recognized  
20 and demonstrated expertise in and knowledge of health and human  
21 services delivery. The director shall report to the Governor and  
22 serve full time at the pleasure of the Governor. The director shall  
23 be subject to confirmation by a majority vote of the members of the  
24 Legislature as provided in section 81-102.

25 (2) If the director appointed under subsection (1) of



1 this section is not a licensed physician, the Governor shall  
 2 appoint a chief medical officer to be responsible for oversight of  
 3 health issues for the Nebraska Health and Human Services System.  
 4 The chief medical officer shall report to the Governor and serve  
 5 full time at the pleasure of the Governor and shall be subject to  
 6 confirmation by a majority of the members of the Legislature. The  
 7 chief medical officer shall be a graduate of a recognized school  
 8 of medicine and licensed to practice medicine and surgery in the  
 9 State of Nebraska and have some special training in public health  
 10 work. If a chief medical officer is appointed, he or she shall  
 11 perform the duties under the Uniform ~~Licensing Law~~ Credentialing  
 12 Act specified in section ~~71-155.01~~ 101 of this act and shall  
 13 be the final decisionmaker in contested cases of (a) the health  
 14 care facilities defined in the Health Care Facility Licensure Act  
 15 arising under the act and sections 71-6042 and 81-604.03 and (b)  
 16 occupations defined in subdivisions (3) and (5) of section 71-6038.

17           Sec. 1315. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,  
 18 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,  
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20 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314,  
21 1317, and 1318 of this act become operative on December 1, 2008.  
22 The other sections of this act become operative on their effective  
23 date.

24           Sec. 1316. Original section 71-1,190, Reissue Revised  
25 Statutes of Nebraska, is repealed.

1                   Sec. 1317. Original sections 25-12,123, 25-21,247,  
2 27-504, 43-129, 43-146.03, 44-792, 44-2804, 44-2902, 44-32,170,  
3 44-4110, 46-604, 46-1201, 46-1202, 46-1203, 46-1204.01,  
4 46-1205, 46-1205.01, 46-1207.01, 46-1209, 46-1210, 46-1213,  
5 46-1214, 46-1214.01, 46-1218, 46-1219, 46-1223, 46-1223.01,  
6 46-1224, 46-1225, 46-1227, 46-1229, 46-1230, 46-1231, 46-1233,  
7 46-1235, 46-1240, 46-1241, 54-311, 60-4,118.02, 60-6,261,  
8 69-302, 71-103, 71-105, 71-108, 71-111, 71-112.03, 71-115.01,  
9 71-117, 71-118, 71-120, 71-122, 71-124, 71-124.01, 71-125,  
10 71-128, 71-129, 71-133, 71-138, 71-145, 71-147.01, 71-147.02,  
11 71-148, 71-149, 71-150, 71-152, 71-153, 71-154, 71-155,  
12 71-155.01, 71-155.03, 71-156, 71-157, 71-158, 71-159, 71-161.01,  
13 71-161.02, 71-161.03, 71-161.04, 71-161.06, 71-161.09, 71-161.10,  
14 71-161.11, 71-161.13, 71-161.14, 71-161.15, 71-161.16, 71-161.19,  
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16 71-166, 71-167, 71-168.01, 71-169, 71-170, 71-171, 71-171.01,  
17 71-171.02, 71-172.01, 71-173, 71-174, 71-174.02, 71-175,  
18 71-176, 71-176.01, 71-177, 71-178, 71-179, 71-180, 71-181,  
19 71-182, 71-183, 71-183.02, 71-185, 71-185.01, 71-185.02, 71-189,  
20 71-191, 71-193.04, 71-193.13, 71-193.14, 71-193.15, 71-193.17,  
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22 71-193.27, 71-193.28, 71-193.29, 71-193.30, 71-193.31, 71-193.32,  
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21 71-5176, 71-5191, 71-51,102, 71-5301, 71-5402, 71-5654, 71-5662,  
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24 71-6120, 71-6121, 71-6122, 71-6123, 71-6721, 71-7427, 71-7436,  
25 71-7454, 71-7457, 71-8709, 77-2704.09, 80-325, 81-657, and 81-3201,

1 Revised Statutes Cumulative Supplement, 2006, and section 71-1,190,  
2 Reissue Revised Statutes of Nebraska, as amended by section 1177 of  
3 this legislative bill, are repealed.

4           Sec. 1318. The following sections are outright  
5 repealed: Sections 46-1219.01, 46-1220, 46-1222, 46-1226, 46-1232,  
6 46-1235.01, 46-1235.02, 46-1236, 46-1237, 46-1237.01, 46-1237.02,  
7 46-1237.03, 46-1240.02, 46-1240.03, 46-1240.04, 46-1240.05,  
8 71-101.01, 71-104, 71-106, 71-112.01, 71-119, 71-123, 71-132,  
9 71-139, 71-139.01, 71-140, 71-141, 71-142, 71-143, 71-144, 71-151,  
10 71-160, 71-161.05, 71-161.07, 71-161.12, 71-161.17, 71-161.18,  
11 71-161.20, 71-165, 71-172, 71-172.02, 71-174.01, 71-175.01,  
12 71-176.03, 71-179.01, 71-184, 71-186, 71-188, 71-193.05, 71-193.16,  
13 71-193.21, 71-193.22, 71-193.24, 71-1,104.06, 71-1,106, 71-1,107,  
14 71-1,107.02, 71-1,107.04, 71-1,107.05, 71-1,107.10, 71-1,107.12,  
15 71-1,107.24, 71-1,107.26, 71-1,107.27, 71-1,132.09, 71-1,132.10,  
16 71-1,132.12, 71-1,132.20, 71-1,132.21, 71-1,132.29, 71-1,132.35,  
17 71-1,132.36, 71-1,132.48, 71-1,132.53, 71-1,136.03, 71-1,136.09,  
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1 71-1,341, 71-1,342, 71-1,349, 71-354, 71-355, 71-363, 71-373,  
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13 71-4715.01, 71-4716, 71-4717, 71-4719, 71-5180, 71-5181, 71-5182,  
14 71-5192, 71-51,100, 71-6053, 71-6057, 71-6059, 71-6061, 71-6064,  
15 71-6066, 71-6067, 71-6068, 71-6109, 71-6110, 71-6111, and 71-6112,  
16 Reissue Revised Statutes of Nebraska, and sections 46-1233.01,  
17 71-139.02, 71-1,132.05, 71-1,142, 71-1,198, 71-1,360, 71-1,367,  
18 71-1,389, 71-375, 71-376, 71-377, 71-397, 71-3,145, 71-3,174,  
19 71-3,179, 71-1721.07, 71-1723, 71-1724.02, 71-1725, 71-1725.01,  
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22 71-17,127, 71-17,129, 71-17,130, 71-17,139, and 71-17,141, Revised  
23 Statutes Cumulative Supplement, 2006.