

AMENDMENTS TO LB 849

Introduced by Health and Human Services.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 38-1901, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-1901 Sections 38-1901 to 38-1920 and section 4 of this
6 act shall be known and may be cited as the Medical Radiography
7 Practice Act.

8 Sec. 2. Section 38-1902, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 38-1902 For purposes of the Medical Radiography Practice
11 Act and elsewhere in the Uniform Credentialing Act, unless the
12 context otherwise requires, the definitions found in sections
13 38-1903 to 38-1913 and section 4 of this act apply.

14 Sec. 3. Section 38-1908, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 38-1908 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.~~ utilizing proper:

22 (1) Radiation protection for the patient, the
23 radiographer, and others;

- 1 (2) Radiation generating equipment operation and quality
- 2 control;
- 3 (3) Image production and evaluation;
- 4 (4) Radiographic procedures;
- 5 (5) Processing of films;
- 6 (6) Positioning of patients;
- 7 (7) Performance methods to achieve optimum radiographic
- 8 technique with a minimum of radiation exposure; and
- 9 (8) Patient care and management as it relates to the
- 10 practice of medical radiography.

11 Sec. 4. Patient care and management, as it relates to the
12 practice of medical radiography, includes, but is not limited to:

- 13 (1) Infection control;
- 14 (2) Patient transfer and movement;
- 15 (3) Assisting patients with medical equipment;
- 16 (4) Routine monitoring;
- 17 (5) Medical emergencies;
- 18 (6) Proper use of contrast media; and
- 19 (7) Patient safety and protection, including minimizing
- 20 and monitoring patient radiation exposure through utilizing proper
- 21 professional standards and protocols, including the principle of as
- 22 low as reasonably achievable.

23 Sec. 5. Section 38-1918, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 38-1918 ~~(1)~~ (1)(a) The educational program for medical
26 radiographers shall consist of twenty-four months of instruction
27 in radiography approved by the board which includes, but is not

1 limited to: ~~radiographic procedures, imaging equipment, image~~
2 ~~production and evaluation, film processing, radiation physics,~~
3 ~~radiation protection, radiation biology, radiographic pathology,~~
4 ~~and quality assurance activities.~~

5 (i) Radiation protection for the patient, the
6 radiographer, and others;

7 (ii) Radiation generating equipment operation and quality
8 control;

9 (iii) Image production and evaluation;

10 (iv) Radiographic procedures;

11 (v) Processing of films;

12 (vi) Positioning of patients;

13 (vii) Performance methods to achieve optimum radiographic
14 technique with a minimum of radiation exposure; and

15 (viii) Patient care and management as it relates to the
16 practice of medical radiography.

17 (b) The board shall recognize equivalent courses of
18 instruction successfully completed by individuals who are applying
19 for licensure as medical radiographers when determining if the
20 requirements of section 38-1915 have been met.

21 (2) The examination for limited radiographers shall
22 include, but not be limited to:

23 (a) Radiation protection, radiation generating equipment
24 maintenance and operation and quality control, image production
25 and evaluation, radiographic procedures, and patient care and
26 management; and

27 (b) The anatomy of, and positioning for, specific regions

1 of the human anatomy. The anatomical regions shall include at least
2 one of the following:

- 3 (i) Chest;
- 4 (ii) Extremities;
- 5 (iii) Skull and sinus;
- 6 (iv) Spine; or
- 7 (v) Ankle and foot.

8 (3) The examination for limited radiographers in bone
9 density shall include, but not be limited to, basic concepts
10 of bone densitometry, equipment operation and quality control,
11 radiation safety, and dual X-ray absorptiometry (DXA) scanning of
12 the finger, heel, forearm, lumbar spine, and proximal femur.

13 (4) The department, with the recommendation of the
14 board, shall adopt and promulgate rules and regulations regarding
15 the examinations required in sections 38-1915 and 38-1916. Such
16 rules and regulations shall provide for (a) the administration
17 of examinations based upon national standards, such as the
18 Examination in Radiography from the American Registry of Radiologic
19 Technologists for medical radiographers, the Examination for the
20 Limited Scope of Practice in Radiography or the Bone Densitometry
21 Equipment Operator Examination from the American Registry of
22 Radiologic Technologists for limited radiographers, or equivalent
23 examinations that, as determined by the board, meet the standards
24 for educational and psychological testing as recommended by
25 the American Psychological Association, the American Educational
26 Research Association, and the National Council on Measurement in
27 Education, (b) procedures to be followed for examinations, (c) the

1 method of grading and the passing grades for such examinations, (d)
2 security protection for questions and answers, and (e) for medical
3 radiographers, the contents of such examination based on the course
4 requirements for medical radiographers prescribed in subsection (1)
5 of this section. Any costs incurred in determining the extent to
6 which examinations meet the examining standards of this subsection
7 shall be paid by the individual or organization proposing the use
8 of such examination.

9 (5) No applicant for a license as a limited radiographer
10 may take the examination for licensure, or for licensure for any
11 specific anatomical region, more than three times without first
12 waiting a period of one year after the last unsuccessful attempt
13 of the examination and submitting proof to the department of
14 completion of continuing competency activities as required by the
15 board for each subsequent attempt.

16 Sec. 6. Section 38-2605, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 38-2605 (1) The practice of optometry means one or a
19 combination of the following:

20 (a) The examination of the human eye to diagnose, treat,
21 or refer for consultation or treatment any abnormal condition of
22 the human eye, ocular adnexa, or visual system;

23 (b) The employment of instruments, devices,
24 pharmaceutical agents, and procedures intended for the purpose
25 of investigating, examining, diagnosing, treating, managing, or
26 correcting visual defects or abnormal conditions of the human eye,
27 ocular adnexa, or visual system;

1 (c) The prescribing and application of lenses, devices
2 containing lenses, prisms, contact lenses, ophthalmic devices,
3 orthoptics, vision training, pharmaceutical agents, and prosthetic
4 devices to correct, relieve, or treat defects or abnormal
5 conditions of the human eye, ocular adnexa, or visual system;

6 (d) The dispensing and sale of a contact lens, including
7 a cosmetic or plano contact lens or a contact lens containing an
8 ocular pharmaceutical agent which an optometrist is authorized by
9 law to prescribe and which is classified by the federal Food and
10 Drug Administration as a drug;

11 ~~(d)~~ (e) The ordering of procedures and laboratory tests
12 rational to the diagnosis or treatment of conditions or diseases of
13 the human eye, ocular adnexa, or visual system; and

14 ~~(e)~~ (f) The removal of superficial eyelid, conjunctival,
15 and corneal foreign bodies.

16 (2) The practice of optometry does not include the use
17 of surgery, laser surgery, oral therapeutic agents used in the
18 treatment of glaucoma, oral steroids, or oral immunosuppressive
19 agents or the treatment of infantile/congenital glaucoma, which
20 means the condition is present at birth.

21 Sec. 7. Section 38-2617, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 38-2617 (1) A licensed optometrist who administers or
24 prescribes pharmaceutical agents for examination or for treatment
25 shall provide the same standard of care to patients as that
26 provided by a physician licensed in this state to practice
27 medicine and surgery utilizing the same pharmaceutical agents

1 for examination or treatment.

2 (2) An optometrist who dispenses a contact lens
3 containing an ocular pharmaceutical agent which is classified by
4 the federal Food and Drug Administration as a drug shall comply
5 with the rules and regulations of the board relating to packaging,
6 labeling, storage, drug utilization review, and record keeping. The
7 board shall adopt and promulgate rules and regulations relating to
8 packaging, labeling, storage, drug utilization review, and record
9 keeping for such contact lenses.

10 Sec. 8. Section 38-2826, Revised Statutes Supplement,
11 2009, is amended to read:

12 38-2826 Labeling means the process of preparing and
13 affixing a label to any drug container or device container,
14 exclusive of the labeling by a manufacturer, ~~packer,~~ packager,
15 or distributor of a nonprescription drug or commercially packaged
16 legend drug or device. Any such label shall include all information
17 required by federal and state law or regulation. Compliance with
18 labeling requirements under federal law for devices described in
19 subsection (2) of section 38-2841, medical gases, and medical gas
20 devices constitutes compliance with state law and regulations for
21 purposes of this section.

22 Sec. 9. Section 38-2841, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 38-2841 (1) Prescription drug or device or legend drug or
25 device means:

26 ~~(1)~~ (a) A drug or device which is required under federal
27 law to be labeled with one of the following statements prior to

1 being dispensed or delivered:

2 ~~(a)~~ (i) Caution: Federal law prohibits dispensing without
3 prescription;

4 ~~(b)~~ (ii) Caution: Federal law restricts this drug to use
5 by or on the order of a licensed veterinarian; or

6 ~~(c)~~ (iii) "Rx Only"; or

7 ~~(2)~~ (b) A drug or device which is required by any
8 applicable federal or state law to be dispensed pursuant only to
9 a prescription or chart order or which is restricted to use by
10 practitioners only.

11 (2) Prescription drug or device or legend drug or device
12 does not include a type of device, including supplies and device
13 components, which carries the federal Food and Drug Administration
14 legend "Caution: federal law restricts this device to sale by or on
15 the order of a licensed health care practitioner" or an alternative
16 legend approved by the federal Food and Drug Administration which
17 it recognizes, in published guidance, as conveying essentially the
18 same message.

19 Sec. 10. Section 38-2850, Revised Statutes Supplement,
20 2009, is amended to read:

21 38-2850 As authorized by the Uniform Credentialing Act,
22 the practice of pharmacy may be engaged in by a pharmacist, a
23 pharmacist intern, or a practitioner with a pharmacy license. The
24 practice of pharmacy shall not be construed to include:

25 (1) Persons who sell, offer, or expose for sale
26 completely denatured alcohol or concentrated lye, insecticides, and
27 fungicides in original packages;

1 (2) Practitioners, other than veterinarians, certified
2 nurse midwives, certified registered nurse anesthetists, and nurse
3 practitioners, who dispense drugs or devices as an incident to
4 the practice of their profession, except that if such practitioner
5 regularly engages in dispensing such drugs or devices to his or
6 her patients for which such patients are charged, such practitioner
7 shall obtain a pharmacy license;

8 (3) Persons who sell, offer, or expose for sale
9 nonprescription drugs or proprietary medicines, the sale of which
10 is not in itself a violation of the Nebraska Liquor Control Act;

11 (4) Medical representatives, detail persons, or persons
12 known by some name of like import, but only to the extent of
13 permitting the relating of pharmaceutical information to health
14 care professionals;

15 (5) Licensed veterinarians practicing within the scope of
16 their profession;

17 (6) Certified nurse midwives, certified registered
18 nurse anesthetists, and nurse practitioners who dispense sample
19 medications which are provided by the manufacturer and are
20 dispensed at no charge to the patient;

21 (7) Hospitals engaged in the compounding and dispensing
22 of drugs and devices pursuant to chart orders for persons
23 registered as patients and within the confines of the hospital,
24 except that if a hospital engages in such compounding and
25 dispensing for persons not registered as patients and within
26 the confines of the hospital, such hospital shall obtain a pharmacy
27 license or delegated dispensing permit;

1 (8) Optometrists who prescribe or dispense eyeglasses
2 or contact lenses to their own patients, including contact
3 lenses that contain and deliver ocular pharmaceutical agents as
4 authorized under the Optometry Practice Act, and ophthalmologists
5 who prescribe or dispense eyeglasses or contact lenses to their own
6 patients, including contact lenses that contain and deliver ocular
7 pharmaceutical agents;

8 (9) Registered nurses employed by a hospital who
9 administer pursuant to a chart order, or procure for such
10 purpose, single doses of drugs or devices from original drug or
11 device containers or properly labeled prepackaged drug or device
12 containers to persons registered as patients and within the
13 confines of the hospital;

14 (10) Persons employed by a facility where dispensed drugs
15 and devices are delivered from a pharmacy for pickup by a patient
16 or caregiver and no dispensing or storage of drugs or devices
17 occurs;

18 (11) Persons who sell or purchase medical products,
19 compounds, vaccines, or serums used in the prevention or cure of
20 animal diseases and maintenance of animal health if such medical
21 products, compounds, vaccines, or serums are not sold or purchased
22 under a direct, specific, written medical order of a licensed
23 veterinarian; ~~and~~

24 (12) A pharmacy or a person accredited by an accrediting
25 body which or who, pursuant to a medical order, (a) administers,
26 dispenses, or distributes medical gas or medical gas devices to
27 patients or ultimate users or (b) purchases or receives medical

1 gas or medical gas devices for administration, dispensing, or
2 distribution to patients or ultimate users; ~~and-~~

3 (13) A business or a person accredited by an accrediting
4 body which or who, pursuant to a medical order, (a) sells,
5 delivers, or distributes devices described in subsection (2) of
6 section 38-2841 to patients or ultimate users or (b) purchases or
7 receives such devices with intent to sell, deliver, or distribute
8 to patients or ultimate users.

9 Sec. 11. Section 38-2867, Revised Statutes Supplement,
10 2009, is amended to read:

11 38-2867 (1) Except as provided for pharmacy technicians
12 in sections 38-2890 to 38-2897, for persons described in
13 subdivision (12) or (13) of section 38-2850, and for individuals
14 authorized to dispense under a delegated dispensing permit, no
15 person other than a licensed pharmacist, a pharmacist intern, or a
16 practitioner with a pharmacy license shall provide pharmaceutical
17 care, compound and dispense drugs or devices, or dispense pursuant
18 to a medical order. Notwithstanding any other provision of law
19 to the contrary, a pharmacist or pharmacist intern may dispense
20 drugs or devices pursuant to a medical order of a practitioner
21 authorized to prescribe in another state if such practitioner could
22 be authorized to prescribe such drugs or devices in this state.

23 (2) Except as provided for pharmacy technicians in
24 sections 38-2890 to 38-2897, for persons described in subdivision
25 (12) or (13) of section 38-2850, and for individuals authorized to
26 dispense under a delegated dispensing permit, it shall be unlawful
27 for any person to permit or direct a person who is not a pharmacist

1 intern, a licensed pharmacist, or a practitioner with a pharmacy
2 license to provide pharmaceutical care, compound and dispense drugs
3 or devices, or dispense pursuant to a medical order.

4 (3) It shall be unlawful for any person to coerce
5 or attempt to coerce a pharmacist to enter into a delegated
6 dispensing agreement or to supervise any pharmacy technician for
7 any purpose or in any manner contrary to the professional judgment
8 of the pharmacist. Violation of this subsection by a health care
9 professional regulated pursuant to the Uniform Credentialing Act
10 shall be considered an act of unprofessional conduct. A violation
11 of this subsection by a facility shall be prima facie evidence
12 in an action against the license of the facility pursuant to the
13 Health Care Facility Licensure Act. Any pharmacist subjected to
14 coercion or attempted coercion pursuant to this subsection has a
15 cause of action against the person and may recover his or her
16 damages and reasonable attorney's fees.

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

19 Sec. 12. Section 38-2869, Revised Statutes Supplement,
20 2009, is amended to read:

21 38-2869 (1) (a) Prior to the dispensing or the delivery
22 of a drug or device pursuant to a medical order to a patient
23 or caregiver, a pharmacist shall in all care settings conduct
24 a prospective drug utilization review. Such prospective drug
25 utilization review shall involve monitoring the patient-specific
26 medical history described in subdivision (b) of this subsection and
27 available to the pharmacist at the practice site for:

- 1 (i) Therapeutic duplication;
2 (ii) Drug-disease contraindications;
3 (iii) Drug-drug interactions;
4 (iv) Incorrect drug dosage or duration of drug treatment;
5 (v) Drug-allergy interactions; and
6 (vi) Clinical abuse or misuse.

7 (b) A pharmacist conducting a prospective drug
8 utilization review shall ensure that a reasonable effort is made
9 to obtain from the patient, his or her caregiver, or his or her
10 practitioner and to record and maintain records of the following
11 information to facilitate such review:

12 (i) The name, address, telephone number, date of birth,
13 and gender of the patient;

14 (ii) The patient's history of significant disease, known
15 allergies, and drug reactions and a comprehensive list of relevant
16 drugs and devices used by the patient; and

17 (iii) Any comments of the pharmacist relevant to the
18 patient's drug therapy.

19 (c) The assessment of data on drug use in any prospective
20 drug utilization review shall be based on predetermined standards,
21 approved by the board.

22 (2) (a) Prior to the dispensing or delivery of a drug or
23 device pursuant to a prescription, the pharmacist shall ensure that
24 a verbal offer to counsel the patient or caregiver is made. The
25 counseling of the patient or caregiver by the pharmacist shall be
26 on elements which, in the exercise of the pharmacist's professional
27 judgment, the pharmacist deems significant for the patient. Such

1 elements may include, but need not be limited to, the following:

2 (i) The name and description of the prescribed drug or
3 device;

4 (ii) The route of administration, dosage form, dose, and
5 duration of therapy;

6 (iii) Special directions and precautions for preparation,
7 administration, and use by the patient or caregiver;

8 (iv) Common side effects, adverse effects or
9 interactions, and therapeutic contraindications that may be
10 encountered, including avoidance, and the action required if such
11 effects, interactions, or contraindications occur;

12 (v) Techniques for self-monitoring drug therapy;

13 (vi) Proper storage;

14 (vii) Prescription refill information; and

15 (viii) Action to be taken in the event of a missed dose.

16 (b) The patient counseling provided for in this
17 subsection shall be provided in person whenever practical or by the
18 utilization of telephone service which is available at no cost to
19 the patient or caregiver.

20 (c) Patient counseling shall be appropriate to the
21 individual patient and shall be provided to the patient or
22 caregiver.

23 (d) Written information may be provided to the patient or
24 caregiver to supplement the patient counseling provided for in this
25 subsection but shall not be used as a substitute for such patient
26 counseling.

27 (e) This subsection shall not be construed to require a

1 pharmacist to provide patient counseling when:

2 (i) The patient or caregiver refuses patient counseling;

3 (ii) The pharmacist, in his or her professional judgment,
4 determines that patient counseling may be detrimental to the
5 patient's care or to the relationship between the patient and his
6 or her practitioner;

7 (iii) The patient is a patient or resident of a health
8 care facility or health care service licensed under the Health Care
9 Facility Licensure Act to whom prescription drugs or devices are
10 administered by a licensed or certified staff member or consultant
11 or a certified physician's assistant;

12 (iv) The practitioner authorized to prescribe drugs or
13 devices specifies that there shall be no patient counseling unless
14 he or she is contacted prior to such patient counseling. The
15 prescribing practitioner shall specify such prohibition in an oral
16 prescription or in writing on the face of a written prescription,
17 including any prescription which is received by facsimile or
18 electronic transmission. The pharmacist shall note "Contact Before
19 Counseling" on the face of the prescription if such is communicated
20 orally by the prescribing practitioner; ~~or~~

21 (v) A medical gas or a medical gas device is
22 administered, dispensed, or distributed by a person described in
23 subdivision (12) of section 38-2850; or-

24 (vi) A device described in subsection (2) of section
25 38-2841 is sold, distributed, or delivered by a business or person
26 described in subdivision (13) of section 38-2850.

27 Sec. 13. Section 68-906, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 68-906 For purposes of paying medical assistance under
3 the Medical Assistance Act and sections 68-1002 and 68-1006, the
4 State of Nebraska accepts and assents to all applicable provisions
5 of Title XIX and Title XXI of the federal Social Security Act.
6 Any reference in the Medical Assistance Act to the federal Social
7 Security Act or other acts or sections of federal law shall be to
8 such federal acts or sections as they existed on January 1, ~~2009-~~
9 2010.

10 Sec. 14. Section 68-1017, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 68-1017 (1) Any person, including vendors and providers
13 of medical assistance and social services, who, by means of a
14 willfully false statement or representation, or by impersonation
15 or other device, obtains or attempts to obtain, or aids or abets
16 any person to obtain or to attempt to obtain ~~(1)~~ (a) an assistance
17 certificate of award to which he or she is not entitled, ~~(2)~~
18 (b) any commodity, any foodstuff, any food ~~coupon,~~ instrument,
19 any Supplemental Nutrition Assistance Program ~~coupon,~~ electronic
20 benefit, or electronic benefit card, or any payment to which
21 such individual is not entitled or a larger payment than that
22 to which he or she is entitled, ~~(3)~~ (c) any payment made on
23 behalf of a recipient of medical assistance or social services,
24 or ~~(4)~~ (d) any other benefit administered by the Department of
25 Health and Human Services, or who violates any statutory provision
26 relating to assistance to the aged, blind, or disabled, aid to
27 dependent children, social services, or medical assistance, commits

1 an offense, and

2 (2) Any person who commits an offense under subsection

3 (1) of this section shall upon conviction be punished as follows:

4 (a) If the aggregate value of all funds or other benefits obtained
5 or attempted to be obtained is less than five hundred dollars, the
6 person so convicted shall be guilty of a Class III misdemeanor; or

7 (b) if the aggregate value of all funds and other benefits obtained
8 or attempted to be obtained is five hundred dollars or more, the
9 person so convicted shall be guilty of a Class IV felony.

10 Sec. 15. Section 68-1017.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 68-1017.01 (1) A person commits an offense if he
13 or she knowingly uses, alters, or transfers any Supplemental
14 Nutrition Assistance Program ~~coupons, electronic benefits,~~ or
15 electronic benefit cards or any authorizations to participate
16 in the Supplemental Nutrition Assistance Program in any manner not
17 authorized by law. An offense under this subsection shall be a
18 Class III misdemeanor if the value of the Supplemental Nutrition
19 Assistance Program ~~coupons, electronic benefits,~~ electronic benefit
20 cards, or authorizations is less than five hundred dollars and
21 shall be a Class IV felony if the value is five hundred dollars or
22 more.

23 (2) A person commits an offense if he or she knowingly

24 (a) possesses any Supplemental Nutrition Assistance Program
25 ~~coupons, electronic benefits,~~ or electronic benefit cards or
26 any authorizations to participate in the Supplemental Nutrition
27 Assistance Program when such individual is not authorized by law to

1 possess them, (b) redeems Supplemental Nutrition Assistance Program
2 ~~coupons, electronic~~ benefits, or electronic benefit cards when he
3 or she is not authorized by law to redeem them, or (c) redeems
4 Supplemental Nutrition Assistance Program ~~coupons, electronic~~
5 benefits, or electronic benefit cards for purposes not authorized
6 by law. An offense under this subsection shall be a Class III
7 misdemeanor if the value of the Supplemental Nutrition Assistance
8 Program ~~coupons, electronic~~ benefits, electronic benefit cards, or
9 authorizations is less than five hundred dollars and shall be a
10 Class IV felony if the value is five hundred dollars or more.

11 (3) A person commits an offense if he or she knowingly
12 possesses blank authorizations to participate in the Supplemental
13 Nutrition Assistance Program when such possession is not authorized
14 by law. An offense under this subsection shall be a Class IV
15 felony.

16 (4) When any Supplemental Nutrition Assistance Program
17 ~~coupons, electronic~~ benefits, or electronic benefit cards or
18 any authorizations to participate in the Supplemental Nutrition
19 Assistance Program of various values are obtained in violation of
20 this section pursuant to one scheme or a continuing course of
21 conduct, whether from the same or several sources, such conduct
22 may be considered as one offense, and the values aggregated in
23 determining the grade of the offense.

24 Sec. 16. Section 68-1070, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 68-1070 (1) If the following non-United-States citizens
27 meet the income and other requirements for participation in the

1 medical assistance program established pursuant to the Medical
2 Assistance Act, in the program for financial assistance pursuant
3 to section 43-512, in the Supplemental Nutrition Assistance Program
4 administered by the State of Nebraska pursuant to the federal
5 Food and Nutrition Act of 2008 as the act existed on January 1,
6 ~~2009~~, 2010, or in the program for assistance to the aged, blind,
7 and disabled, such persons shall be eligible for such program or
8 benefits:

9 (a) Non-United-States citizens lawfully admitted,
10 regardless of the date entry was granted, into the United States
11 for permanent residence;

12 (b) Refugees admitted under section 207 of the federal
13 Immigration and Naturalization Act, non-United-States citizens
14 granted asylum under section 208 of such federal act, and
15 non-United-States citizens whose deportation is withheld under
16 section 243(h) of such federal act, regardless of the date of entry
17 into the United States; and

18 (c) Individuals for whom coverage is mandated under
19 federal law.

20 (2) Individuals eligible for the Supplemental Nutrition
21 Assistance Program under this section shall receive any
22 Supplemental Nutrition Assistance Program ~~coupons or electronic~~
23 benefits or a state voucher which can be used only for food
24 products authorized under the federal Food and Nutrition Act of
25 2008 as the act existed on January 1, ~~2009~~, 2010, in the amount
26 of the Supplemental Nutrition Assistance Program benefit for which
27 this individual was otherwise eligible but for the citizenship

1 provisions of Public Law 104-193, 110 Stat. 2105 (1996).

2 (3) The income and resources of any individual who
3 assists a non-United-States citizen to enter the United States
4 by signing an affidavit of support shall be deemed available
5 in determining the non-United-States citizen's eligibility for
6 assistance until the non-United-States citizen becomes a United
7 States citizen.

8 Sec. 17. Section 70-1603, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 70-1603 No municipal utility owned and operated by a
11 village furnishing water, natural gas, or electricity at retail in
12 this state shall discontinue service to any domestic subscriber for
13 nonpayment of any past-due account unless such utility first gives
14 written notice by mail to any subscriber whose service is proposed
15 to be terminated at least seven days prior to termination. ~~As to~~
16 ~~any subscriber who has previously been identified as a welfare~~
17 ~~recipient to the utility by the Department of Health and Human~~
18 ~~Services, such notice shall be by certified mail and notice of such~~
19 ~~proposed termination shall be given to the department.~~

20 Sec. 18. Section 70-1605, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 70-1605 No public or private utility company, other than
23 a municipal utility owned and operated by a village, furnishing
24 water, natural gas, or electricity at retail in this state shall
25 discontinue service to any domestic subscriber for nonpayment of
26 any past-due account unless the utility company first gives notice
27 by first-class mail or in person to any subscriber whose service

1 is proposed to be terminated. If notice is given by first-class
2 mail, such mail shall be conspicuously marked as to its importance.
3 Service shall not be discontinued for at least seven days after
4 notice is sent or given. Holidays and weekends shall be excluded
5 from the seven days. ~~As to any subscriber who has previously been~~
6 ~~identified as a welfare recipient to the company by the Department~~
7 ~~of Health and Human Services,~~ such notice shall be by certified
8 mail and notice of such proposed termination shall be given to the
9 ~~department.~~

10 Sec. 19. Section 71-401, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 71-401 Sections 71-401 to 71-459 and section 21 of this
13 act shall be known and may be cited as the Health Care Facility
14 Licensure Act.

15 Sec. 20. Section 71-403, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 71-403 For purposes of the Health Care Facility Licensure
18 Act, unless the context otherwise requires, the definitions found
19 in sections 71-404 to 71-431 and section 21 of this act shall
20 apply.

21 Sec. 21. (1) Children's day health service means a
22 person or any legal entity which provides specialized care and
23 treatment, including an array of social, medical, rehabilitation,
24 or other support services for a period of less than twenty-four
25 consecutive hours in a community-based group program to twenty
26 or more persons under twenty-one years of age who require such
27 services due to medical dependence, birth trauma, congenital

1 anomalies, developmental disorders, or functional impairment.

2 (2) Children's day health service does not include
3 services provided under the Developmental Disabilities Services
4 Act.

5 Sec. 22. Section 71-415, Revised Statutes Cumulative
6 Supplement, 2008, is amended to read:

7 71-415 Health care service means an adult day service,
8 a home health agency, a hospice or hospice service, ~~or~~ a respite
9 care service, or beginning January 1, 2011, a children's day health
10 service. Health care service does not include an in-home personal
11 services agency as defined in section 71-6501.

12 Sec. 23. Section 71-516.04, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-516.04 Any facility which offers to provide or
15 provides care for persons with Alzheimer's disease, dementia, or a
16 related disorder by means of an Alzheimer's special care unit shall
17 disclose the form of care or treatment provided that distinguishes
18 such form as being especially applicable to or suitable for such
19 persons. The disclosure shall be made to the Department of Health
20 and Human Services and to any person seeking placement within an
21 Alzheimer's special care unit. The department shall examine all
22 such disclosures in the records of the department as part of the
23 facility's license renewal procedure at the time of licensure or
24 relicensure.

25 The information disclosed shall explain the additional
26 care provided in each of the following areas:

27 (1) The Alzheimer's special care unit's written statement

1 of its overall philosophy and mission which reflects the needs
2 of residents afflicted with Alzheimer's disease, dementia, or a
3 related disorder;

4 (2) The process and criteria for placement in, transfer
5 to, or discharge from the unit;

6 (3) The process used for assessment and establishment of
7 the plan of care and its implementation, including the method by
8 which the plan of care evolves and is responsive to changes in
9 condition;

10 (4) Staff training and continuing education practices
11 which shall include, but not be limited to, four hours annually for
12 direct care staff. Such training shall include topics pertaining to
13 the form of care or treatment set forth in the disclosure described
14 in this section. The requirement in this subdivision shall not be
15 construed to increase the aggregate hourly training requirements of
16 the Alzheimer's special care unit;

17 (5) The physical environment and design features
18 appropriate to support the functioning of cognitively impaired
19 adult residents;

20 (6) The frequency and types of resident activities;

21 (7) The involvement of families and the availability of
22 family support programs; and

23 (8) The costs of care and any additional fees.

24 Sec. 24. Section 71-1559, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-1559 (1) Every modular housing unit, except those
27 constructed or manufactured by any school district or community

1 college area as a part of a buildings trade or other instructional
2 program offered by such district or area, manufactured, sold,
3 offered for sale, or leased in this state more than six months
4 after July 10, 1976, and before May 1, 1998, shall comply with the
5 seal requirements of the state agency responsible for regulation of
6 modular housing units as such requirements existed on the date of
7 manufacture.

8 (2) Every modular housing unit, except those constructed
9 or manufactured by any school district or community college area as
10 part of a buildings trade or other instructional program offered
11 by such district or area, manufactured, sold, offered for sale,
12 or leased in this state on or after May 1, 1998, shall bear a
13 seal issued by the commission certifying that the construction
14 and the structural, plumbing, heating, and electrical systems
15 of such modular housing unit have been installed in compliance
16 with its standards applicable at the time of manufacture.
17 Each manufacturer of such modular housing units, except those
18 constructed or manufactured by such school district or community
19 college area, shall submit its plans to the commission for
20 the purposes of inspection. The commission shall establish a
21 compliance assurance program consisting of an application form and
22 a compliance assurance manual. Such manual shall identify and list
23 all procedures which the manufacturer and the inspection agency
24 propose to implement to assure that the finished modular housing
25 unit conforms to the approved building system and the applicable
26 codes adopted by the commission. The compliance assurance program
27 requirements shall apply to all inspection agencies, whether

1 commission or authorized third party, and shall define duties and
2 responsibilities in the process of inspecting, monitoring, and
3 issuing seals for modular housing units. The commission shall
4 issue the seal only after ascertaining that the manufacturer
5 is in full compliance with the compliance assurance program
6 through inspections at the plant by the commission or authorized
7 third-party inspection agency. Such inspections shall be of
8 an unannounced frequency such that the required level of code
9 compliance performance is implemented and maintained throughout all
10 areas of plant and site operations that affect regulatory aspects
11 of the construction. Each seal issued by the state shall remain the
12 property of the commission and may be revoked by the commission in
13 the event of violation of the conditions of issuance.

14 (3) Modular housing units constructed or manufactured by
15 any school district or community college area as a part of a
16 buildings trade or other instructional program offered by such
17 district or area shall be inspected by the local inspection
18 authority or, upon request of the district or area, by the
19 commission. If the commission inspects a unit and finds that it
20 is in compliance, the commission shall issue a seal certifying
21 that the construction and the structural, plumbing, heating, and
22 electrical systems of such unit have been installed in compliance
23 with the standards applicable at the time of manufacture.

24 (4) The commission shall charge a seal fee of not less
25 than one hundred and not more than one thousand dollars per modular
26 housing unit, as determined annually by the commission after
27 published notice and a hearing, for seals issued by the commission

1 under subsection (2) or (3) of this section.

2 (5) Inspection fees shall be paid for all inspections
3 by the commission of manufacturing plants located outside of the
4 State of Nebraska. Such fees shall consist of a reimbursement by
5 the manufacturer of actual travel and inspection expenses only and
6 shall be paid prior to any issuance of seals.

7 (6) All fees collected under the Nebraska Uniform
8 Standards for Modular Housing Units Act shall be remitted to the
9 State Treasurer for credit to the Modular Housing Units Public
10 Service Commission Housing and Recreational Vehicle Cash Fund.
11 ~~which is hereby created. Money credited to the fund pursuant to~~
12 ~~this section shall be used by the commission for the purpose of~~
13 ~~administering the act. Transfers from the fund to the General Fund~~
14 ~~may be made at the direction of the Legislature. Any money in the~~
15 ~~Modular Housing Units Cash Fund available for investment shall be~~
16 ~~invested by the state investment officer pursuant to the Nebraska~~
17 ~~Capital Expansion Act and the Nebraska State Funds Investment Act.~~

18 Sec. 25. Section 71-1796, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-1796 Sections 71-1796 to ~~71-17,100~~ 71-1799 shall be
21 known and may be cited as the Nebraska Center for Nursing Act.

22 Sec. 26. Section 71-4604.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-4604.01 (1) (a) Every manufactured home or recreational
25 vehicle manufactured, sold, offered for sale, or leased in this
26 state more than four months after May 27, 1975, and before May 1,
27 1998, shall comply with the seal requirements of the state agency

1 responsible for regulation of manufactured homes or recreational
2 vehicles as such requirements existed on the date of manufacture.

3 (b) Every manufactured home or recreational vehicle
4 manufactured, sold, offered for sale, or leased in this state
5 on or after May 1, 1998, shall bear a seal issued by the commission
6 certifying that the body and frame design and construction and
7 the plumbing, heating, and electrical systems of such manufactured
8 home or recreational vehicle have been installed in compliance
9 with the standards adopted by the commission, applicable at the
10 time of manufacture. Manufactured homes destined for sale outside
11 the United States shall be exempt from displaying the seal issued
12 by the state if sufficient proof of such delivery is submitted
13 to the commission for review. Recreational vehicles destined for
14 sale or lease outside this state or the United States shall be
15 exempt from displaying the seal issued by the state if sufficient
16 proof of such delivery is submitted to the commission for review.
17 The commission shall issue the recreational-vehicle seal upon an
18 inspection of the plans and specifications for the recreational
19 vehicle or upon an actual inspection of the recreational vehicle
20 during or after construction if the recreational vehicle is in
21 compliance with state standards. The commission shall issue the
22 manufactured-home seal in accordance with the National Manufactured
23 Housing Construction and Safety Standards Act of 1974, 42 U.S.C.
24 5401 et seq., as such act existed on January 1, 2005. Each seal
25 issued by the state shall remain the property of the commission and
26 may be revoked by the commission in the event of a violation of the
27 conditions of issuance.

1 (2) The commission shall charge a fee of ~~not less than~~
2 ~~ten dollars and not more than seventy-five dollars,~~ as in an amount
3 determined annually by the commission after published notice and a
4 hearing, for seals issued by the commission. A seal shall be placed
5 on each manufactured home. The commission shall assess any costs
6 of inspections conducted outside of Nebraska to the manufacturer in
7 control of the inspected facility or to a manufacturer requesting
8 such inspection. Such costs shall include, but not be limited to,
9 actual travel, personnel, and inspection expenses and shall be paid
10 prior to any issuance of seals.

11 (3) The commission shall adopt and promulgate rules and
12 regulations governing the submission of plans and specifications of
13 manufactured homes and recreational vehicles. A person who submits
14 recreational-vehicle plans and specifications to the commission
15 for review and approval shall be assessed an hourly rate by
16 the commission for performing the review of the plans and
17 specifications and related functions. The hourly rate shall be not
18 less than fifteen dollars per hour and not more than seventy-five
19 dollars per hour as determined annually by the commission after
20 published notice and hearing based on the number of hours of review
21 time as follows:

- 22 (a) New model, one hour;
- 23 (b) Quality control manual, two hours;
- 24 (c) Typicals, one-half hour;
- 25 (d) Revisions, three-fourths hour;
- 26 (e) Engineering calculations, three-fourths hour;
- 27 (f) Initial package, fifteen hours; and

1 (g) Yearly renewal, two hours plus the three-fourths hour
2 for revisions.

3 (4) The commission shall charge each manufacturer an
4 inspection fee of two hundred fifty dollars for each inspection
5 of any new recreational vehicle manufactured by such manufacturer
6 and not bearing a seal issued by the State of Nebraska or some
7 reciprocal state.

8 (5) All fees collected pursuant to the Uniform Standard
9 Code for Manufactured Homes and Recreational Vehicles shall be
10 remitted to the State Treasurer for credit to the ~~Manufactured
11 Homes and Recreational Vehicles Public Service Commission Housing
12 and Recreational Vehicle Cash Fund. which is hereby created.~~ Money
13 credited to the fund pursuant to this section shall be used by
14 the commission for the purpose of administering the code. Any
15 money in the Manufactured Homes and Recreational Vehicles Cash Fund
16 available for investment shall be invested by the state investment
17 officer pursuant to the Nebraska Capital Expansion Act and the
18 Nebraska State Funds Investment Act.

19 Sec. 27. Section 71-7447, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-7447 (1) No person or entity may act as a wholesale
22 drug distributor in this state without first obtaining a wholesale
23 drug distributor license from the department. The department shall
24 issue a license to any applicant that satisfies the requirements
25 for licensure under the Wholesale Drug Distributor Licensing Act.
26 Manufacturers are exempt from any licensing and other requirements
27 of the act to the extent not required by federal law or

1 regulation except for those requirements deemed necessary and
2 appropriate under rules and regulations adopted and promulgated by
3 the department.

4 (2) Wholesale medical gas distributors shall be exempt
5 from any licensing and other requirements of the Wholesale Drug
6 Distributor Licensing Act to the extent not required under federal
7 law but shall be licensed as wholesale drug distributors by the
8 department for the limited purpose of engaging in the wholesale
9 distribution of medical gases upon application to the department,
10 payment of a licensure fee, and inspection of the applicant's
11 facility by the department, except that the applicant may submit
12 and the department may accept an inspection accepted in another
13 state or an inspection conducted by a nationally recognized
14 accreditation program approved by the board. For purposes of
15 such licensure, wholesale medical gas distributors shall only be
16 required to provide information required under subdivisions (1)(a)
17 through (1)(c) of section 71-7448.

18 (3) The Wholesale Drug Distributor Licensing Act does not
19 apply to:

20 (a) An agent or employee of a licensed wholesale drug
21 distributor who possesses drug samples when such agent or employee
22 is acting in the usual course of his or her business or employment;
23 or

24 (b) Any person who (i) engages in a wholesale transaction
25 relating to the manufacture, distribution, sale, transfer, or
26 delivery of medical gases the gross dollar value of which does not
27 exceed five percent of the total retail sales of medical gases by

1 such person during the immediately preceding calendar year and (ii)
2 has either a pharmacy permit or license ~~or a drug dispensing permit~~
3 or a delegated dispensing permit or is exempt from the practice of
4 pharmacy under subsection (12) of section 38-2850.

5 Sec. 28. Section 71-8403, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-8403 (1) A patient may request a copy of the patient's
8 medical records or may request to examine such records. Access to
9 such records shall be provided upon request pursuant to sections
10 71-8401 to 71-8407, except that mental health medical records may
11 be withheld if any treating physician, psychologist, or mental
12 health practitioner determines in his or her professional opinion
13 that release of the records would not be in the best interest
14 of the patient unless the release is required by court order.
15 The request and any authorization shall be in writing. If an
16 authorization does not contain an expiration date or specify an
17 event the occurrence of which causes the authorization to expire,
18 the authorization shall expire twelve months after the date the
19 authorization was executed by the patient. and shall be valid for
20 one hundred eighty days after the date of execution by the patient.

21 (2) Upon receiving a written request for a copy of the
22 patient's medical records under subsection (1) of this section, the
23 provider shall furnish the person making the request a copy of such
24 records not later than thirty days after the written request is
25 received.

26 (3) Upon receiving a written request to examine the
27 patient's medical records under subsection (1) of this section, the

1 provider shall, as promptly as required under the circumstances but
2 no later than ten days after receiving the request: (a) Make the
3 medical records available for examination during regular business
4 hours; (b) inform the patient if the records do not exist or
5 cannot be found; (c) if the provider does not maintain the records,
6 inform the patient of the name and address of the provider who
7 maintains such records, if known; or (d) if unusual circumstances
8 have delayed handling the request, inform the patient in writing
9 of the reasons for the delay and the earliest date, not later than
10 twenty-one days after receiving the request, when the records will
11 be available for examination. The provider shall furnish a copy of
12 medical records to the patient as provided in subsection (2) of
13 this section if requested.

14 (4) This section does not require the retention of
15 records or impose liability for the destruction of records in the
16 ordinary course of business prior to receipt of a request made
17 under subsection (1) of this section. A provider shall not be
18 required to disclose confidential information in any medical record
19 concerning another patient or family member who has not consented
20 to the release of the record.

21 Sec. 29. Section 77-27,165, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-27,165 ~~Prior to December 1 of each year,~~ the The
24 Department of Health and Human Services shall send notification
25 to the debtor of the assertion of the department's rights, or of
26 the rights of an individual not eligible as a public assistance
27 recipient, to all or a portion of the debtor's income tax refund.

1 The notice shall contain the procedures available to the debtor
2 for protesting the offset, the debtor's opportunity to give written
3 notice of intent to contest the validity of the claim before the
4 department within thirty days of the date of mailing the notice,
5 and the defenses the debtor may raise. The debt shall be certified
6 by the department through a preoffset review.

7 Sec. 30. Section 83-1217, Revised Statutes Supplement,
8 2009, is amended to read:

9 83-1217 The department shall contract for specialized
10 services and shall only contract with specialized programs
11 which meet certification and accreditation requirements. Assisted
12 services provided under this section through community-based
13 developmental disability programs shall be reimbursed on a daily
14 rate basis, including such services provided to eligible recipients
15 under the medical assistance program established in section 68-903
16 upon approval for such reimbursement from the federal Centers for
17 Medicare and Medicaid Services. The department shall apply to the
18 federal Centers for Medicare and Medicaid Services for approval
19 of any necessary waiver amendments to permit such reimbursement
20 ~~no later than September 1, 2009,~~ and shall begin reimbursing such
21 services on a daily rate basis no later than ~~ninety days after such~~
22 ~~approval.~~ March 1, 2011. In order to be certified, each specialized
23 program shall:

- 24 (1) Have an internal quality assurance process;
25 (2) Have a program evaluation component;
26 (3) Have a complaint mechanism for persons with
27 developmental disabilities and their families;

1 (4) Have a process to ensure direct and open
2 communication with the department;

3 (5) Develop, implement, and regularly evaluate a plan to
4 ensure retention of quality employees and prevent staff turnover;

5 (6) Have measures to enhance staff training and
6 development;

7 (7) Be governed by a local governing board or have an
8 advisory committee, the membership of which consists of (a) ~~county~~
9 ~~commissioners or other locally elected officials,~~ (b) ~~persons with~~
10 ~~developmental disabilities or members of their families,~~ and (c)
11 ~~persons who are not elected officials,~~ persons with developmental
12 disabilities, ~~or~~ (b) family members or legal guardians of persons
13 with developmental disabilities, or (c) persons who are interested
14 community members; ~~- At least one-third of the membership shall~~
15 ~~be persons with developmental disabilities or members of their~~
16 ~~families. No more than one-third of the membership shall be elected~~
17 ~~officials, and no more than one-third of the membership shall be~~
18 ~~persons who are not elected officials, persons with developmental~~
19 ~~disabilities, or family members of persons with developmental~~
20 ~~disabilities;~~

21 (8) Meet accreditation standards developed by the
22 department;

23 (9) Require a criminal history record information check
24 of all employees hired on or after September 13, 1997, who work
25 directly with clients receiving services and who are not licensed
26 or certified as members of their profession; and

27 (10) Meet any other certification requirements developed

1 by the department to further the purposes of the Developmental
2 Disabilities Services Act.

3 Sec. 31. Section 83-1220, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 83-1220 The department shall conduct hearings initiated
6 under section 83-1219 using hearing officers. The department may
7 employ, retain, or approve such qualified hearing officers as are
8 necessary to conduct the hearings. The hearing officers shall not
9 be persons who are employees or officers of a local agency which
10 is involved in providing services to the person with developmental
11 disabilities. A person who otherwise qualifies to conduct a hearing
12 shall not be considered an employee of the agency solely because
13 the person is paid by the agency to serve as a hearing officer.
14 No hearing officer shall participate in any way in any hearing
15 or matter in which the hearing officer may have a conflict of
16 interest. ~~Hearing officers appointed and assigned by the~~ The
17 department shall have exclusive original jurisdiction over cases
18 arising under sections 83-1219 to 83-1224, and in no event shall
19 juvenile courts have jurisdiction over such matters.

20 Sec. 32. Section 83-1221, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 83-1221 Upon the receipt of a petition pursuant to
23 section 83-1219, the department shall assign it to a hearing
24 officer. The hearing officer shall receive all subsequent pleadings
25 and shall conduct the hearing. At the hearing the parties shall
26 present evidence on the issues raised in the pleadings. At the
27 completion of the proceedings, the hearing officer shall prepare a

1 report based on the evidence presented containing recommendations
2 for the director to make findings of fact and conclusions of
3 law. Within forty-five days after the receipt of a request for
4 a hearing, the ~~hearing officer~~ director shall prepare a final
5 decision and order directing such action as may be necessary. At
6 the request of either party for good cause shown, the hearing
7 officer may grant specific extensions of time beyond this period.
8 The report and the final decision and order shall be delivered to
9 each party or attorney of record by certified mail, ~~and to the~~
10 ~~director.~~

11 Sec. 33. Section 83-1222, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 83-1222 Any party at a hearing conducted pursuant to
14 section 83-1219 shall have the right to:

15 (1) Be accompanied and advised by counsel and by
16 individuals with special knowledge or training with respect to
17 the needs of persons with developmental disabilities;

18 (2) Present evidence and confront, cross-examine, and
19 compel the attendance of witnesses;

20 (3) Prohibit the introduction of any evidence at the
21 hearing that has not been disclosed to that party at least five
22 days before the hearing;

23 (4) Obtain a written or electronic verbatim record of the
24 hearing; and

25 (5) Obtain written findings of fact and decisions from
26 the director.

27 The hearing officer may also produce evidence on his or

1 her own motion.

2 Sec. 34. Section 83-1223, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 83-1223 The hearing officer shall have the power by
5 subpoena to compel the appearance of witnesses and the production
6 of any relevant evidence. Any witness compelled to attend or
7 produce evidence shall be entitled to the fees and expenses allowed
8 in district court. Any failure to respond to such subpoena shall be
9 certified by the ~~hearing officer~~ director to the district court of
10 Lancaster County for enforcement or for punishment for contempt of
11 the district court.

12 Sec. 35. Section 83-1224, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 83-1224 (1) Any party aggrieved by the findings,
15 conclusions, or final decision and order of the ~~hearing officer~~
16 director shall be entitled to judicial review under this section.
17 Any party of record also may seek enforcement of the final decision
18 and order of the ~~hearing officer~~ director pursuant to this section.

19 (2) Proceedings for judicial review shall be instituted
20 by filing a petition in the district court of Lancaster County
21 within thirty days after service of the final decision and order
22 on the party seeking such review. All parties of record shall be
23 made parties to the proceedings. The court, in its discretion, may
24 permit other interested parties to intervene.

25 (3) The filing of a petition for judicial review to such
26 district court shall operate to stay the enforcement of the final
27 decision and order of the ~~hearing officer~~, director. While judicial

1 proceedings are pending in district court and unless the parties
2 otherwise agree, the person with developmental disabilities shall
3 remain in his or her current placement. If the health or safety
4 of the person with developmental disabilities or of other persons
5 would be endangered by delaying a change in placement, the service
6 provider may make such change without prejudice to the rights of
7 any party.

8 (4) Within thirty days after receiving notification that
9 a petition for judicial review has been filed or, if good cause
10 is shown, within such further time as the court may allow, the
11 department shall prepare and transmit to the court a certified
12 transcript of the proceedings before the hearing officer.

13 (5) Judicial review shall be heard de novo on the
14 record. The court shall receive the records of the administrative
15 proceedings, base its decision on the preponderance of the
16 evidence, and grant such relief as the court determines is
17 appropriate. The district court may affirm, reverse, or modify
18 the decision of the ~~hearing officer~~, director, or remand the case
19 to the ~~hearing officer~~ director for further proceedings, including
20 the receipt of additional evidence, for good cause shown.

21 (6) An aggrieved party may secure a review of any final
22 judgment of the district court under this section by appeal to the
23 Court of Appeals. Such appeal shall be taken in the manner provided
24 by law for appeals in civil cases and shall be heard de novo on the
25 record.

26 (7) When no petition for judicial review or other civil
27 action is filed within thirty days after service of the final

1 decision and order on all of the parties, the ~~hearing officer's~~
2 director's final decision and order shall become effective.
3 Proceedings for enforcement of a ~~hearing officer's~~ director's final
4 decision and order shall be instituted by filing a petition for
5 appropriate relief in the district court of Lancaster County within
6 one year after the date of the ~~hearing officer's~~ director's final
7 decision and order.

8 Sec. 36. (1) The Public Service Commission Housing and
9 Recreational Vehicle Cash Fund is created. The fund shall consist
10 of fees collected under the Nebraska Uniform Standards for Modular
11 Housing Units Act and fees collected pursuant to the Uniform
12 Standard Code for Manufactured Homes and Recreational Vehicles.

13 (2) Money credited to the fund shall be used by the
14 Public Service Commission for the purposes of administering the
15 Nebraska Uniform Standards for Modular Housing Units Act and the
16 Uniform Standard Code for Manufactured Homes and Recreational
17 Vehicles.

18 (3) Transfers from the fund to the General Fund may be
19 made at the direction of the Legislature. Any money in the Public
20 Service Commission Housing and Recreational Vehicle Cash Fund
21 available for investment shall be invested by the state investment
22 officer pursuant to the Nebraska Capital Expansion Act and the
23 Nebraska State Funds Investment Act.

24 (4) On the operative date of this section, the State
25 Treasurer shall transfer any money in the Modular Housing Units
26 Cash Fund and any money in the Manufactured Homes and Recreational
27 Vehicles Cash Fund to the Public Service Commission Housing and

1 Recreational Vehicle Cash Fund.

2 Sec. 37. Sections 24, 26, 36, and 40 of this act become
3 operative on July 1, 2010. Sections 6, 7, 8, 9, 10, 11, 12, 13,
4 14, 15, 16, 19, 20, 21, 22, 23, 27, 30, 31, 32, 33, 34, 35, and
5 39 of this act become operative three calendar months after the
6 adjournment of this legislative session. The other sections of this
7 act become operative on their effective date.

8 Sec. 38. Original sections 38-1901, 38-1902, 38-1908,
9 38-1918, 70-1603, 70-1605, 71-1796, 71-8403, and 77-27,165, Reissue
10 Revised Statutes of Nebraska, are repealed.

11 Sec. 39. Original sections 38-2605, 38-2617, 38-2841,
12 68-906, 68-1017, 68-1017.01, 68-1070, 71-516.04, 71-7447, 83-1220,
13 83-1221, 83-1222, 83-1223, and 83-1224, Reissue Revised Statutes
14 of Nebraska, sections 71-401, 71-403, and 71-415, Revised Statutes
15 Cumulative Supplement, 2008, and sections 38-2826, 38-2850,
16 38-2867, 38-2869, and 83-1217, Revised Statutes Supplement, 2009,
17 are repealed.

18 Sec. 40. Original sections 71-1559 and 71-4604.01,
19 Reissue Revised Statutes of Nebraska, are repealed.

20 Sec. 41. The following section is outright repealed:
21 Section 71-17,100, Reissue Revised Statutes of Nebraska.

22 Sec. 42. Since an emergency exists, this act takes effect
23 when passed and approved according to law.