

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 731

FINAL READING

Introduced by Williams, 36; Kolterman, 24.

Read first time January 03, 2018

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health; to amend sections 38-131,
2 38-145, 38-1001, 38-1004, 38-1005, 38-1017, 38-1018, 38-1028,
3 38-1036, 38-1038, 38-1043, 38-1058, 38-1061, 38-1062, 38-1063,
4 38-1065, 38-1069, 38-1073, 38-1074, 38-1075, 38-1086, 38-1097,
5 38-1099, 38-10,100, 38-10,102, 38-10,103, 38-10,104, 38-10,105,
6 38-10,107, 38-10,108, 38-10,112, 38-10,120, 38-10,128, 38-10,129,
7 38-10,131, 38-10,133, 38-10,135, 38-10,142, 38-10,147, 38-10,150,
8 38-10,152, 38-10,153, 38-10,154, 38-10,156, 38-10,171, 38-2833,
9 38-2847, 38-2891, 38-28,106, 38-3208, 71-203, 71-204, 71-208.08,
10 71-224, and 71-425, Reissue Revised Statutes of Nebraska, sections
11 71-202.01, 71-208, 71-403, 71-2448, and 71-2483, Revised Statutes
12 Cumulative Supplement, 2016, and sections 38-1066, 38-1070,
13 38-10,132, 38-2801, 38-2802, 38-2870, 38-2892, and 71-401, Revised
14 Statutes Supplement, 2017; to require criminal background checks for
15 physical therapists and physical therapy assistants; to require
16 continuing education regarding the prescribing of opiates; to
17 define, redefine, change, and eliminate definitions and provide for
18 licensure of mobile cosmetology salons and mobile nail technology
19 salons under the Cosmetology, Electrology, Esthetics, Nail
20 Technology, and Body Art Practice Act; to eliminate certain
21 provisions relating to cosmeticians, cosmetic establishments,
22 electrology establishments, guest artists, guest body artists,

1 students, and schools; to change licensure requirements for
2 cosmetologists, nail technicians, instructors, and barbers; to
3 change and eliminate requirements for salons, colleges, and schools;
4 to eliminate liability of managers as prescribed; to authorize
5 practice for purposes of the Respiratory Care Practice Act; to
6 provide for licensing of mobile barber shops under the Barber Act;
7 to change provisions relating to dispensing of controlled
8 substances; to provide for licensure of remote dispensing pharmacies
9 under the Pharmacy Practice Act and the Health Care Facility
10 Licensure Act; to adopt the Physical Therapy Licensure Compact; to
11 harmonize provisions; to provide operative dates; to provide
12 severability; to repeal the original sections; and to outright
13 repeal sections 38-1013, 38-1014, 38-1022, 38-1029, 38-1030,
14 38-1071, 38-1072, 38-1091, 38-1092, 38-1093, 38-1094, 38-1095,
15 38-1096, 38-10,106, and 38-10,155, Reissue Revised Statutes of
16 Nebraska.

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

1 Section 1. Section 38-131, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-131 (1) An applicant for an initial license to practice as a
4 registered nurse, ~~or~~ a licensed practical nurse, a physical therapist, or
5 a physical therapy assistant or to practice a profession which is
6 authorized to prescribe controlled substances shall be subject to a
7 criminal background check. Except as provided in subsection (3) of this
8 section, the applicant shall submit with the application a full set of
9 fingerprints which shall be forwarded to the Nebraska State Patrol to be
10 submitted to the Federal Bureau of Investigation for a national criminal
11 history record information check. The applicant shall authorize release
12 of the results of the national criminal history record information check
13 to the department. The applicant shall pay the actual cost of the
14 fingerprinting and criminal background check.

15 (2) This section shall not apply to a dentist who is an applicant
16 for a dental locum tenens under section 38-1122, to a physician or
17 osteopathic physician who is an applicant for a physician locum tenens
18 under section 38-2036, or to a veterinarian who is an applicant for a
19 veterinarian locum tenens under section 38-3335.

20 (3) An applicant for a temporary educational permit as defined in
21 section 38-2019 shall have ninety days from the issuance of the permit to
22 comply with subsection (1) of this section and shall have his or her
23 permit suspended after such ninety-day period if the criminal background
24 check is not complete or revoked if the criminal background check reveals
25 that the applicant was not qualified for the permit.

26 Sec. 2. Section 38-145, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 38-145 (1) The appropriate board shall establish continuing
29 competency requirements for persons seeking renewal of a credential.

30 (2) The purposes of continuing competency requirements are to ensure
31 (a) the maintenance by a credential holder of knowledge and skills

1 necessary to competently practice his or her profession, (b) the
2 utilization of new techniques based on scientific and clinical advances,
3 and (c) the promotion of research to assure expansive and comprehensive
4 services to the public.

5 (3) Each board shall consult with the department and the appropriate
6 professional academies, professional societies, and professional
7 associations in the development of such requirements.

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

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

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

21 (a) Continuing education;

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

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

25 (d) Professional certification;

26 (e) Self-assessment;

27 (f) Peer review or evaluation;

28 (g) Professional portfolio;

29 (h) Practical demonstration;

30 (i) Audit;

31 (j) Exit interviews with consumers;

- 1 (k) Outcome documentation;
- 2 (l) Testing;
- 3 (m) Refresher courses;
- 4 (n) Inservice training;
- 5 (o) Practice requirement; or
- 6 (p) Any other similar modalities.

7 (6) Beginning with the first license renewal period which begins on
8 or after October 1, 2018, the continuing competency requirements for a
9 nurse midwife, dentist, physician, physician assistant, nurse
10 practitioner, podiatrist, and veterinarian who prescribes controlled
11 substances shall include at least three hours of continuing education
12 biennially regarding prescribing opiates as defined in section 28-401.
13 The continuing education may include, but is not limited to, education
14 regarding prescribing and administering opiates, the risks and indicators
15 regarding development of addiction to opiates, and emergency opiate
16 situations. One-half hour of the three hours of continuing education
17 shall cover the prescription drug monitoring program described in
18 sections 71-2454 to 71-2456. This subsection terminates on January 1,
19 2029.

20 Sec. 3. Section 38-1001, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 38-1001 Sections 38-1001 to 38-10,171 and sections 9, 10, 37 to 44,
23 and 58 to 65 of this act shall be known and may be cited as the
24 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
25 Practice Act.

26 Sec. 4. Section 38-1004, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 38-1004 For purposes of the Cosmetology, Electrology, Esthetics,
29 Nail Technology, and Body Art Practice Act and elsewhere in the Uniform
30 Credentialing Act, unless the context otherwise requires, the definitions
31 found in sections 38-1005 to 38-1056 and sections 9 and 10 of this act

1 apply.

2 Sec. 5. Section 38-1005, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-1005 Apprentice means a person engaged ~~registered under the~~
5 ~~Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art~~
6 ~~Practice Act to engage~~ in the study of any or all of the practices of
7 cosmetology under the supervision of an instructor in an apprentice
8 salon.

9 Sec. 6. Section 38-1017, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 38-1017 Cosmetology establishment means a cosmetology salon, a
12 mobile cosmetology salon, an esthetics salon, a school of cosmetology, a
13 school of esthetics, an apprentice salon, ~~cosmetic establishment,~~ or any
14 other place in which any or all of the practices of cosmetology are
15 performed on members of the general public for compensation or in which
16 instruction or training in any or all of the practices of cosmetology is
17 given, except when such practices constitute nonvocational training.

18 Sec. 7. Section 38-1018, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 38-1018 Cosmetology salon means a fixed structure or part thereof
21 licensed under the Cosmetology, Electrology, Esthetics, Nail Technology,
22 and Body Art Practice Act to serve as the site for the performance of any
23 or all of the practices of cosmetology by persons licensed ~~or registered~~
24 under such act.

25 Sec. 8. Section 38-1028, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 38-1028 Esthetics salon means a fixed structure or part thereof
28 licensed under the Cosmetology, Electrology, Esthetics, Nail Technology,
29 and Body Art Practice Act to serve as the site for the performance of any
30 or all of the practices of esthetics by persons licensed ~~or registered~~
31 under such act.

1 Sec. 9. Mobile cosmetology salon means a self-contained, self-
2 supporting, enclosed mobile unit licensed under the Cosmetology,
3 Electrology, Esthetics, Nail Technology, and Body Art Practice Act as a
4 mobile site for the performance of the practices of cosmetology by
5 persons licensed under the act.

6 Sec. 10. Mobile nail technology salon means a self-contained, self-
7 supporting, enclosed mobile unit licensed under the Cosmetology,
8 Electrology, Esthetics, Nail Technology, and Body Art Practice Act to
9 serve as a mobile site for the performance of the practices of nail
10 technology by persons licensed under the act.

11 Sec. 11. Section 38-1036, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 38-1036 Nail technology establishment means a nail technology salon,
14 a mobile nail technology salon, a nail technology school, or any other
15 place in which the practices of nail technology are performed on members
16 of the general public for compensation or in which instruction or
17 training in the practices of nail technology is given, except when such
18 practices constitute nonvocational training.

19 Sec. 12. Section 38-1038, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-1038 Nail technology salon means a fixed structure or part
22 thereof licensed under the Cosmetology, Electrology, Esthetics, Nail
23 Technology, and Body Art Practice Act to serve as the site for the
24 performance of the practices of nail technology by persons licensed ~~or~~
25 ~~registered~~ under the act.

26 Sec. 13. Section 38-1043, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 38-1043 Nonvocational training means the act of imparting knowledge
29 of or skills in any or all of the practices of cosmetology, nail
30 technology, esthetics, or electrology to persons not licensed ~~or~~
31 ~~registered~~ under the Cosmetology, Electrology, Esthetics, Nail

1 Technology, and Body Art Practice Act for the purpose of noncommercial
2 use by those receiving such training.

3 Sec. 14. Section 38-1058, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 38-1058 It shall be unlawful for any person, group, company, or
6 other entity to engage in any of the following acts without being duly
7 licensed ~~or registered~~ as required by the Cosmetology, Electrology,
8 Esthetics, Nail Technology, and Body Art Practice Act, unless
9 specifically excepted by such act:

10 (1) To engage in or follow or to advertise or hold oneself out as
11 engaging in or following any of the practices of cosmetology or to act as
12 a practitioner;

13 (2) To engage in or advertise or hold oneself out as engaging in the
14 teaching of any of the practices of cosmetology; or

15 (3) To operate or advertise or hold oneself out as operating a
16 cosmetology establishment in which any of the practices of cosmetology or
17 the teaching of any of the practices of cosmetology are carried out.

18 Sec. 15. Section 38-1061, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 38-1061 (1) All practitioners shall be licensed ~~or registered~~ by the
21 department under the Cosmetology, Electrology, Esthetics, Nail
22 Technology, and Body Art Practice Act in a category or categories
23 appropriate to their practice.

24 (2) Licensure shall be required before any person may engage in the
25 full, unsupervised practice or teaching of cosmetology, electrology,
26 esthetics, nail technology, or body art, and no person may assume the
27 title of cosmetologist, electrologist, esthetician, instructor, nail
28 technician, nail technology instructor, esthetics instructor, permanent
29 color technician, tattoo artist, body piercer, or body brander without
30 first being licensed by the department.

31 (3) All licensed practitioners shall practice in an appropriate

1 licensed establishment or facility.

2 Sec. 16. Section 38-1062, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-1062 In order to be licensed by the department by examination, an
5 individual shall meet, and present to the department evidence of meeting,
6 the following requirements:

7 (1) Has attained the age of seventeen years on or before the
8 beginning date of the examination for which application is being made;

9 (2) Has completed formal education equivalent to a United States
10 high school education;

11 (3) Possesses a minimum competency in the knowledge and skills
12 necessary to perform the practices for which licensure is sought, as
13 evidenced by successful completion of an examination in the appropriate
14 practices approved by the board and administered by the department;

15 (4) Possesses sufficient ability to read the English language to
16 permit the applicant to practice in a safe manner, as evidenced by
17 successful completion of the written examination; and

18 (5) Has graduated from a school of cosmetology or an apprentice
19 salon in or outside of Nebraska, a school of esthetics in or outside of
20 Nebraska, or a school of electrolysis upon completion of a program of
21 studies appropriate to the practices for which licensure is being sought,
22 as evidenced by a diploma or certificate from the school or apprentice
23 salon to the effect that the applicant has complied with the following:

24 (a) For licensure as a cosmetologist, the program of studies shall
25 consist of a minimum of one ~~two~~ thousand eight ~~one~~ hundred hours ~~and two~~
26 ~~thousand credits~~;

27 (b) For licensure as an esthetician, the program of studies shall
28 consist of a minimum of six hundred hours ~~and six hundred credits~~;

29 (c) For licensure as a cosmetology instructor, the program of
30 studies shall consist of a minimum of six ~~nine~~ hundred ~~twenty-five~~ hours
31 beyond the program of studies required for licensure as a cosmetologist

1 ~~earned in a period of not less than six months;~~

2 (d) For licensure as a cosmetology instructor, be currently licensed
3 as a cosmetologist in Nebraska, as evidenced by possession of a valid
4 Nebraska cosmetology license;

5 (e) For licensure as an electrologist, the program of studies shall
6 consist of a minimum of six hundred hours ~~and six hundred credits;~~

7 (f) For licensure as an electrology instructor, be currently
8 licensed as an electrologist in Nebraska and have practiced electrology
9 actively for at least two years immediately before the application; and

10 (g) For licensure as an esthetics instructor, completion of a
11 program of studies consisting of a minimum of three hundred hours beyond
12 the program of studies required for licensure as an esthetician and
13 current licensure as an esthetician in Nebraska.

14 Sec. 17. Section 38-1063, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-1063 ~~A complete application for examination shall be postmarked~~
17 ~~no later than fifteen days before the beginning of the examination for~~
18 ~~which application is being made. Applications received after such date~~
19 ~~shall be considered as applications for the next scheduled examination.~~
20 No application for any type of licensure ~~or registration~~ shall be
21 considered complete unless all information requested in the application
22 has been supplied, all seals and signatures required have been obtained,
23 and all supporting and documentary evidence has been received by the
24 department.

25 Sec. 18. Section 38-1065, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 38-1065 (1) Examinations approved by the board may be national
28 standardized examinations, but in all cases the examinations shall be
29 related to the knowledge and skills necessary to perform the practices
30 being examined and shall be related to the curricula required to be
31 taught in schools of cosmetology, schools of esthetics, or schools of

1 electrolysis.

2 ~~(2) At least two examinations shall be given annually.~~

3 (2) ~~(3)~~ Practical examinations may be offered as either written or
4 hands-on and shall be conducted in such a manner that the identity of the
5 applicant is not disclosed to the examiners in any way.

6 (3) ~~(4)~~ In order to successfully complete the examination, an
7 applicant shall obtain an average grade of seventy-five percent on all
8 examinations.

9 Sec. 19. Section 38-1066, Revised Statutes Supplement, 2017, is
10 amended to read:

11 38-1066 (1) The department may grant a license based on licensure in
12 another jurisdiction to any person who meets the requirements of
13 subdivisions (1) and (2) of section 38-1062 and who presents proof of the
14 following:

15 (a) That he or she is currently licensed in the appropriate category
16 in another jurisdiction and that he or she has never been disciplined or
17 had his or her license revoked. An applicant seeking licensure as an
18 instructor in the manner provided in this section shall be licensed as an
19 instructor in another jurisdiction. An applicant seeking licensure as a
20 cosmetologist in the manner provided in this section shall be licensed as
21 a cosmetologist in another jurisdiction. An applicant seeking licensure
22 as an esthetician in the manner provided in this section shall be
23 licensed as a cosmetologist, an esthetician, or an equivalent title in
24 another jurisdiction. An applicant seeking licensure as an esthetics
25 instructor in the manner provided in this section shall be licensed as a
26 cosmetology instructor, esthetics instructor, or the equivalent in
27 another jurisdiction. An applicant seeking licensure as an electrologist
28 or an electrology instructor in the manner provided in this section shall
29 be licensed as an electrologist or an electrology instructor,
30 respectively, in another jurisdiction;

31 (b) That such license was issued on the basis of an examination and

1 the results of the examination. If an examination was not required for
2 licensure in the other jurisdiction, the applicant shall take the
3 Nebraska examination; and

4 (c) That the applicant complies with the hour requirements of
5 subdivision (5) of section 38-1062 through any combination of hours
6 earned as a student or apprentice in a cosmetology establishment ~~or an~~
7 ~~electrology establishment~~ licensed or approved by the jurisdiction in
8 which it was located and hour-equivalents granted for recent work
9 experience, with hour-equivalents recognized as follows:

10 (i) Each month of full-time practice as an instructor within the
11 five years immediately preceding application shall be valued as one
12 hundred hour-equivalents toward an instructor's license ~~or a cosmetology~~
13 ~~license and one hundred hour-equivalents toward an esthetician's license;~~

14 (ii) Each month of full-time practice as a cosmetologist within the
15 five years immediately preceding application shall be valued as one
16 hundred hour-equivalents toward a cosmetology license ~~and one hundred~~
17 ~~hour-equivalents toward an esthetician's license;~~

18 (iii) Each month of full-time practice as an esthetician within the
19 five years immediately preceding application shall be valued as one
20 hundred hour-equivalents toward an esthetician's license;

21 (iv) Each month of full-time practice as an esthetics instructor
22 within the five years immediately preceding application shall be valued
23 as one hundred hour-equivalents toward an esthetics instructor's license;
24 and

25 (v) Each month of full-time practice as an electrologist within the
26 five years immediately preceding application shall be valued as one
27 hundred hour-equivalents toward an electrologist's license.

28 (2) An applicant who is a military spouse may apply for a temporary
29 license as provided in section 38-129.01 and may practice under the
30 temporary license without supervision.

31 Sec. 20. Section 38-1069, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-1069 ~~Registration shall be required before any person may act as~~
3 ~~a guest artist, guest body artist, cosmetician, student, apprentice, or~~
4 ~~student instructor, and no person shall assume any title indicative of~~
5 ~~any of such areas of activity without first being registered or licensed~~
6 ~~by the department under the Cosmetology, Electrology, Esthetics, Nail~~
7 ~~Technology, and Body Art Practice Act. A license as a temporary~~
8 ~~practitioner shall be required before any person may act as a temporary~~
9 ~~practitioner, and no person shall assume any title indicative of being a~~
10 ~~temporary practitioner without first being so licensed by the department~~
11 ~~under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body~~
12 ~~Art Practice Act act.~~

13 Sec. 21. Section 38-1070, Revised Statutes Supplement, 2017, is
14 amended to read:

15 38-1070 An individual making application for ~~registration or~~ a
16 temporary license, other than a temporary license issued as provided in
17 section 38-129.01, shall meet, and present to the department evidence of
18 meeting, the requirements for the specific type of ~~registration or~~
19 license applied for.

20 Sec. 22. Section 38-1073, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 38-1073 An applicant for licensure as a temporary practitioner shall
23 show evidence that his or her completed application for regular licensure
24 has been accepted by the department, that he or she has not failed any
25 portion of the licensure examination, and that he or she has been
26 accepted for work in a licensed cosmetology establishment under the
27 supervision of a licensed practitioner. ~~An individual registered as a~~
28 ~~temporary practitioner on December 1, 2008, shall be deemed to be~~
29 ~~licensed as a temporary practitioner under the Cosmetology, Electrology,~~
30 ~~Esthetics, Nail Technology, and Body Art Practice Act on such date. The~~
31 ~~temporary practitioner may continue to practice under such registration~~

1 ~~as a temporary license until it would have expired under its terms.~~

2 Sec. 23. Section 38-1074, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-1074 ~~(1) Registration and temporary licensure shall be granted~~
5 ~~for a set period of time and cannot be renewed.~~

6 ~~(2) Registration as a guest artist shall expire two years following the~~
7 ~~initial date of issuance.~~

8 ~~(3) Registration as a cosmetician shall expire two years following the~~
9 ~~initial date of issuance.~~

10 ~~(4) Registration as a student, apprentice, or student instructor shall~~
11 ~~expire upon successful completion of the licensing examination or~~
12 ~~termination of enrollment in a school of cosmetology, a school of~~
13 ~~esthetics, or an apprentice salon.~~

14 ~~(5) Licensure as a temporary practitioner shall expire eight weeks~~
15 ~~following the date of issuance or upon receipt of examination results,~~
16 ~~whichever occurs first. The , except that the license of a temporary~~
17 ~~practitioner who fails to take the first scheduled examination shall~~
18 ~~expire immediately unless the department finds that the temporary~~
19 ~~practitioner was unable to attend the examination due to an emergency or~~
20 ~~other valid circumstances, in which case the department may extend the~~
21 ~~license an additional eight weeks or until receipt of the examination~~
22 ~~results, whichever occurs first. No license may be extended in such~~
23 ~~manner more than once.~~

24 Sec. 24. Section 38-1075, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-1075 The Cosmetology, Electrology, Esthetics, Nail Technology,
27 and Body Art Practice Act does not apply to or restrict the activities of
28 the following:

29 (1) Any person holding a current license or certificate issued
30 pursuant to the Uniform Credentialing Act when engaged in the usual and
31 customary practice of his or her profession or occupation;

1 (2) Any person engaging solely in earlobe piercing;

2 (3) Any person engaging solely in natural hair braiding;

3 (4) Any person when engaged in domestic or charitable
4 administration;

5 (5) Any person performing any of the practices of cosmetology or
6 nail technology solely for theatrical presentations or other
7 entertainment functions;

8 (6) Any person practicing cosmetology, electrology, esthetics, or
9 nail technology within the confines of a hospital, nursing home, massage
10 therapy establishment, funeral establishment, or other similar
11 establishment or facility licensed or otherwise regulated by the
12 department, except that no unlicensed or ~~unregistered~~ person may accept
13 compensation for such practice;

14 (7) Any person providing services during a bona fide emergency;

15 (8) Any retail or wholesale establishment or any person engaged in
16 the sale of cosmetics, nail technology products, or other beauty products
17 when the products are applied by the customer or when the application of
18 the products is in direct connection with the sale or attempted sale of
19 such products at retail;

20 (9) Any person when engaged in nonvocational training;

21 (10) A person demonstrating on behalf of a manufacturer or
22 distributor any cosmetology, nail technology, electrolysis, or body art
23 equipment or supplies if such demonstration is performed without charge;

24 (11) Any person or licensee engaged in the practice or teaching of
25 manicuring; ~~and~~

26 (12) Any person or licensee engaged in the practice of airbrush
27 tanning or temporary, nonpermanent airbrush tattooing; and -

28 (13) Any person applying cosmetics.

29 Sec. 25. Section 38-1086, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 38-1086 In order to maintain its license in good standing, each

1 salon shall operate in accordance with the following requirements:

2 (1) The salon shall at all times comply with all applicable
3 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
4 and Body Art Practice Act and all rules and regulations adopted and
5 promulgated under such act;

6 (2) The salon owner or his or her agent shall notify the department
7 at least thirty days prior to any change of ownership, name, or address,
8 and within one week if a salon is permanently closed, except in emergency
9 circumstances as determined by the department;

10 (3) No salon shall permit any unlicensed ~~or unregistered~~ person to
11 perform any of the practices of cosmetology within its confines or
12 employment;

13 (4) The salon shall display a name upon, over, or near the entrance
14 door distinguishing it as a salon;

15 (5) The salon shall permit any duly authorized agent of the
16 department to conduct an operation inspection or investigation at any
17 time during the normal operating hours of the salon, without prior
18 notice, and the owner and manager shall assist the inspector by providing
19 access to all areas of the salon, all personnel, and all records
20 requested by the inspector;

21 (6) The salon shall display in a conspicuous place the following
22 records:

23 (a) The current license or certificate of consideration to operate a
24 salon;

25 (b) The current licenses ~~or registrations~~ of all persons employed by
26 or working in the salon; and

27 (c) The rating sheet from the most recent operation inspection;

28 (7) At no time shall a salon employ more employees than permitted by
29 the square footage requirements of the Cosmetology, Electrology,
30 Esthetics, Nail Technology, and Body Art Practice Act; and

31 (8) The salon shall not knowingly permit its employees ~~or clients~~ to

1 use or , consume, ~~serve, or in any manner possess or distribute~~
2 intoxicating beverages ~~or controlled substances~~ upon its premises.

3 Sec. 26. Section 38-1097, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 38-1097 In order to be licensed as a school of cosmetology by the
6 department, an applicant shall meet and present to the department
7 evidence of meeting the following requirements:

8 (1) The proposed school shall be a fixed permanent structure or part
9 of one;

10 (2) The proposed school shall have a contracted enrollment of at
11 least ~~ten~~ fifteen full-time or part-time students;

12 (3) The proposed school shall contain at least three thousand five
13 hundred square feet of floor space and facilities, staff, apparatus, and
14 equipment appropriate to its projected enrollment in accordance with the
15 standards established by rule and regulation; and

16 (4) The proposed school shall not have the same entrance as or
17 direct access to a cosmetology salon, esthetics salon, or nail technology
18 salon.

19 A school of cosmetology is not required to be licensed as a school
20 of esthetics in order to provide an esthetics training program or as a
21 school of nail technology in order to provide a nail technology training
22 program.

23 Sec. 27. Section 38-1099, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 38-1099 Along with the application the applicant for a license to
26 operate a school of cosmetology or school of esthetics shall submit:

27 (1) A detailed floor plan or blueprint of the proposed school
28 building sufficient to show compliance with the relevant rules and
29 regulations;

30 (2) Evidence of minimal property damage, personal injury, and
31 liability insurance coverage for the proposed school;

1 (3) A copy of the curriculum to be taught for all courses;

2 (4) A copy of the school catalog, handbook, or policies ~~rules~~ and
3 the student contract; and

4 (5) A list of the names and credentials of all licensees to be
5 employed by the school, ~~and the name and qualifications of the school~~
6 ~~manager;~~

7 ~~(6) Complete student entrance notifications and contracts for all~~
8 ~~persons proposed as students or student instructors, which shall be~~
9 ~~submitted fifteen days prior to opening;~~

10 ~~(7) A completed cosmetology education or esthetics education~~
11 ~~evaluation scale, as applicable; and~~

12 ~~(8) A schedule of proposed hours of operation and class and course~~
13 ~~scheduling.~~

14 Sec. 28. Section 38-10,100, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-10,100 In order to be licensed as a school of esthetics by the
17 department, an applicant shall meet and present to the department
18 evidence of meeting the following requirements:

19 (1) The proposed school shall be a fixed permanent structure or part
20 of one;

21 (2) The proposed school shall have a contracted enrollment of at
22 least four full-time or part-time ~~but not more than six~~ students ~~for each~~
23 ~~licensed esthetics instructor on the staff of the proposed school;~~

24 (3) The proposed school shall contain at least one thousand square
25 feet of floor space and facilities, staff, apparatus, and equipment
26 appropriate to its projected enrollment in accordance with the standards
27 established by rule and regulation; and

28 (4) The proposed school shall not have the same entrance as or
29 direct access to a cosmetology salon, an esthetics salon, or a nail
30 technology salon.

31 Sec. 29. Section 38-10,102, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-10,102 In order to maintain its license in good standing, each
3 school of cosmetology or school of esthetics shall operate in accordance
4 with the following requirements:

5 (1) The school shall at all times comply with all applicable
6 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
7 and Body Art Practice Act and all rules and regulations adopted and
8 promulgated under such act;

9 (2) The school owner or owners or the authorized agent thereof shall
10 notify the department at least thirty days prior to any change of
11 ownership, name, or address, and at least sixty days prior to closure,
12 except in emergency circumstances as determined by the department;

13 (3) No school shall permit anyone other than a student, student
14 instructor, or instructor, ~~or guest artist~~ to perform any of the
15 practices of cosmetology or esthetics within its confines or employ,
16 except that such restriction shall not prevent a school from inviting
17 guest educators ~~teachers~~ who are not licensed ~~or registered~~ to provide
18 education ~~lectures~~ to students or student instructors if the guest
19 educator ~~lecturer~~ does not perform any of the practices of cosmetology or
20 esthetics;

21 (4) The school shall display a name upon or near the entrance door
22 designating it as a school of cosmetology or a school of esthetics;

23 (5) The school shall display in a conspicuous place within the
24 clinic area a sign reading: All services in this school are performed by
25 students who are training in cosmetology or esthetics, as applicable. A
26 notice to such effect shall also appear in all advertising conducted by
27 the school for its clinic services;

28 (6) The school shall permit any duly authorized agent of the
29 department to conduct an operation inspection or investigation at any
30 time during the normal operating hours of the school without prior
31 notice, and the owner or manager shall assist the inspector by providing

1 access to all areas of the school, all personnel, and all records
2 requested by the inspector;

3 (7) The school shall display in a conspicuous place the following
4 records:

5 (a) The current license to operate a school of cosmetology or school
6 of esthetics;

7 (b) The current licenses ~~or registrations~~ of all persons licensed
8 under the act, except students, employed by or working in the school; and

9 (c) The rating sheet from the most recent accreditation inspection;

10 (8) At no time shall a school enroll more students than permitted by
11 the act or the rules and regulations adopted and promulgated under the
12 act;

13 (9) The school shall not knowingly permit its students, employees,
14 or clients to use, consume, serve, or in any other manner possess or
15 distribute intoxicating beverages or controlled substances upon its
16 premises;

17 (10) No instructor or student instructor shall perform, and no
18 school shall permit such person to perform, any of the practices of
19 cosmetology or esthetics on the public in a school of cosmetology or
20 school of esthetics other than that part of the practical work which
21 pertains directly to the teaching of practical subjects to students or
22 student instructors and in no instance shall complete cosmetology or
23 esthetics services be provided for a client unless done in a
24 demonstration class of theoretical or practical studies;

25 (11) The school shall maintain space, staff, library, teaching
26 apparatus, and equipment as established by rules and regulations adopted
27 and promulgated under the act;

28 (12) The school shall keep a daily record of the attendance and
29 clinical performance of each student and student instructor;

30 (13) The school shall maintain regular class and instructor hours
31 and shall require the minimum curriculum;

1 (14) The school shall establish and maintain criteria and standards
2 for student grading, evaluation, and performance and shall award a
3 certificate or diploma to a student only upon completing a full course of
4 study in compliance with such standards, except that no student shall
5 receive such certificate or diploma until he or she has satisfied or made
6 an agreement with the school to satisfy all outstanding financial
7 obligations to the school;

8 (15) The school shall maintain on file the enrollment of each
9 student;

10 (16) The school shall maintain a report indicating the students and
11 student instructors enrolled, the hours ~~and credits~~ earned, the
12 instructors employed, the hours of operation, and such other pertinent
13 information as required by the department. ~~No hours or credits shall be~~
14 ~~allowed for any student unless such student is duly registered and the~~
15 ~~hours and credits are reported by the school; and~~

16 (17) The school shall print and provide to each student a copy of
17 the school rules, which shall not be inconsistent with the Cosmetology,
18 Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the
19 Uniform Credentialing Act, or the rules and regulations adopted and
20 promulgated under either act and which shall include policies of the
21 school with respect to tuition, reimbursement, conduct, attendance,
22 grading, earning of hours ~~and credits~~, demerits, penalties, dismissal,
23 graduation requirements, dress, and other information sufficient to
24 advise the student of the standards he or she will be required to
25 maintain. The department may review any school's rules to determine their
26 consistency with the intent and content of the Cosmetology, Electrology,
27 Esthetics, Nail Technology, and Body Art Practice Act and the rules and
28 regulations and may overturn any school rules found not to be in accord.

29 Sec. 30. Section 38-10,103, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 38-10,103 In order to maintain a school or apprentice salon license

1 in good standing, each school or apprentice salon shall operate in
2 accordance with the following:

3 (1) Every person accepted for enrollment as a standard student or
4 apprentice shall show evidence that he or she attained the age of
5 seventeen years on or before the date of his or her enrollment in a
6 school of cosmetology, a school of esthetics, or an apprentice salon, has
7 completed the equivalent of a high school education, has been accepted
8 for enrollment at a school of cosmetology, a school of esthetics, or an
9 apprentice salon, and has not undertaken any training in cosmetology or
10 esthetics without being enrolled as a student or apprentice;

11 (2)(a) Every person accepted for enrollment as a special study
12 student or apprentice shall show evidence that he or she:

13 (i) Has attained the age of seventeen years on or before the date of
14 enrollment in a school of cosmetology, a school of esthetics, or an
15 apprentice salon;

16 (ii) Has completed the tenth grade;

17 (iii) Has been accepted for enrollment at a school of cosmetology, a
18 school of esthetics, or an apprentice salon; and

19 (iv) Is actively continuing his or her formal high school education
20 on a full-time basis as determined by the department.

21 (b) An applicant for enrollment as a special study student or
22 apprentice shall not have undertaken any training in cosmetology or
23 esthetics without being enrolled as a student or apprentice.

24 (c) Special study students shall be limited to attending a school of
25 cosmetology, a school of esthetics, or an apprentice salon for no more
26 than eight hours per week during the school year;

27 (3) Every person accepted for enrollment as a student instructor
28 shall show evidence of current licensure as a cosmetologist or
29 esthetician in Nebraska and completion of formal education equivalent to
30 a United States high school education; and

31 (4) No school of cosmetology, school of esthetics, or apprentice

1 salon shall accept an individual for enrollment who does not provide
2 evidence of meeting the age and education requirements. ~~Proof of age~~
3 ~~shall consist of a birth certificate, baptismal certificate, or other~~
4 ~~equivalent document as determined by the department. Evidence of~~
5 ~~education shall consist of a high school diploma, general educational~~
6 ~~development certificate, transcript from a college or university, or~~
7 ~~equivalent document as determined by the department.~~

8 Sec. 31. Section 38-10,104, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-10,104 In order to maintain its license in good standing, each
11 school of cosmetology or school of esthetics shall operate in accordance
12 with the following requirements:

13 (1) All persons accepted for enrollment as students shall meet the
14 qualifications established in section 38-10,103;

15 (2) The school shall, at all times the school is in operation, have
16 at least one instructor in the school for each twenty students or
17 fraction thereof enrolled in the school, except (a) that freshman and
18 advanced students shall be taught by different instructors in separate
19 classes and (b) as provided in section 38-10,100;

20 (3) The school shall not permit any student to render clinical
21 services on members of the public with or without fees until such student
22 has satisfactorily completed the freshman curriculum, except that the
23 board may establish guidelines by which it may approve such practices as
24 part of the freshman curriculum;

25 (4) No school shall pay direct compensation to any of its students.
26 Student instructors may be paid as determined by the school;

27 (5) All students and student instructors shall be under the
28 supervision of an instructor at all times, except that students shall be
29 under the direct supervision of an instructor or student instructor at
30 all times when cosmetology or esthetics services are being taught or
31 performed and student instructors may independently supervise students

1 after successfully completing at least one-half of the required
2 instructor program;

3 ~~(6) Students shall be classified for reporting purposes as follows:~~

4 ~~(a) A full-time student shall mean one who regularly trains at least~~
5 ~~eight hours a day during the normal school week, including normal excused~~
6 ~~absences as defined in the school rules; and~~

7 ~~(b) A part-time student shall mean any student not classified as a~~
8 ~~full-time student;~~

9 ~~(7) Students no longer attending the school shall be classified for~~
10 ~~reporting purposes as follows:~~

11 ~~(a) A graduate shall mean a student who has completed his or her~~
12 ~~hours and credits, has satisfied all school requirements, and has been~~
13 ~~granted a certificate or diploma by the school;~~

14 ~~(b) A transfer shall mean a student who has transferred to another~~
15 ~~school in Nebraska or in another state;~~

16 ~~(c) A temporary drop shall mean a student who has stopped attending~~
17 ~~school for a period of less than three months and has given no indication~~
18 ~~that he or she intends to drop permanently; and~~

19 ~~(d) A permanent drop shall mean a student who has stopped attending~~
20 ~~school for a period of three months or more or one who has stopped~~
21 ~~attending for a shorter time but has informed the school in writing of~~
22 ~~his or her intention to drop permanently;~~

23 ~~(8) Once a student has been classified as a permanent drop, the~~
24 ~~school shall keep a record of his or her hours and credits for a period~~
25 ~~of two years from the last date upon which the student attended school;~~

26 ~~(6) (9) No student shall be permitted by the school to train or work~~
27 ~~in a school in any manner for more than ten hours a day; and~~

28 ~~(7) (10) The school shall not credit a student or student instructor~~
29 ~~with hours and credits except when such hours and credits were earned in~~
30 ~~the study or practice of cosmetology, or esthetics, nail technology, or~~
31 ~~barbering in accordance with the required curriculum. Hours and credits~~

1 shall be credited on a daily basis. Once credited, hours ~~or credits~~
2 cannot be removed or disallowed except by the department upon a finding
3 that the hours ~~or credits~~ have been wrongfully allowed.

4 Sec. 32. Section 38-10,105, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 38-10,105 A student may transfer from one school of cosmetology ~~in~~
7 ~~Nebraska~~ to another school at any time without penalty if all tuition
8 obligations to the school from which the student is transferring have
9 been honored and if the student secures a letter from the school from
10 which he or she is transferring stating that the student has not left any
11 unfulfilled tuition obligations and stating the number of hours ~~and~~
12 ~~credits~~ earned by the student at such school, including any hours ~~and~~
13 ~~credits~~ the student transferred into that school, and the dates of
14 attendance of the student at that school. The student may not begin
15 training at the new school until such conditions have been fulfilled. The
16 school to which the student is transferring shall be entitled to receive
17 from the student's previous school, upon request, ~~credit books and any~~
18 ~~and~~ all records pertaining to the student.

19 Sec. 33. Section 38-10,107, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-10,107 (1) Barbers licensed in the State of Nebraska attending a
22 school of cosmetology may be given credit of one thousand hours of
23 training applied toward the course hours required for graduation Any
24 ~~person holding a current barbering license issued by the appropriate~~
25 ~~authority in Nebraska shall be entitled to waive one thousand hours upon~~
26 ~~enrolling in a complete course of cosmetology training in a school of~~
27 ~~cosmetology. The school shall determine, based upon the knowledge and~~
28 ~~experience of the student, which one thousand hours of training shall be~~
29 ~~waived for the student. The school shall determine, based upon the~~
30 ~~knowledge and experience of the student, how many credits to waive and~~
31 ~~which credits are to be waived for the student, except that no fewer than~~

1 ~~five hundred credits and no more than one thousand credits may be waived~~
2 ~~for any such student. No hours shall be waived for a licensed barber~~
3 ~~enrolling in an esthetician training course or program.~~

4 (2) Cosmetologists licensed in the State of Nebraska attending a
5 barber school or college may be given credit of one thousand hours of
6 training applied toward the course hours required for graduation.

7 Sec. 34. Section 38-10,108, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 38-10,108 No school of cosmetology shall at any time enroll more
10 than three ~~two~~ student instructors for each full-time instructor actively
11 working in and employed by the school.

12 Sec. 35. Section 38-10,112, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 38-10,112 (1) The owner of each school of cosmetology or school of
15 esthetics shall have full responsibility for ensuring that the school is
16 operated in compliance with all applicable laws and rules and regulations
17 and shall be liable for any and all violations occurring in the school.

18 (2) Each school of cosmetology or school of esthetics shall be
19 operated by a manager ~~who shall hold an active instructor's license and~~
20 who shall be present on the premises of the school no less than thirty-
21 five hours each week. ~~Each manager of a school of esthetics shall hold an~~
22 ~~active esthetics instructor's license and shall be present on the~~
23 ~~premises of the school no less than thirty five hours each week. The~~
24 manager may have responsibility for the daily operation of the school or
25 satellite classroom ~~and, if so, shall share with the owner liability for~~
26 ~~any and all violations occurring in the school or satellite classroom.~~

27 Sec. 36. Section 38-10,120, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 38-10,120 ~~(1) Practice outside a licensed cosmetology establishment~~
30 ~~shall be permitted in the following circumstances:~~

31 ~~(a) A registered cosmetician may apply cosmetics or esthetics~~

1 ~~products within the scope of such activity permitted a cosmetician in the~~
2 ~~home of a client or customer; and~~

3 (1) ~~(b)~~ A licensed cosmetology salon or esthetics salon may employ
4 licensed cosmetologists and estheticians, according to the licensed
5 activities of the salon, to perform home services by meeting the
6 following requirements:

7 (a) ~~(i)~~ In order to be issued a home services permit by the
8 department, an applicant shall hold a current active salon license; and

9 (b) ~~(ii)~~ Any person seeking a home services permit shall submit a
10 complete application at least ten days before the proposed date for
11 beginning home services. Along with the application the applicant shall
12 submit evidence of liability insurance or bonding.

13 (2) The department shall issue a home services permit to each
14 applicant meeting the requirements set forth in this section.

15 Sec. 37. In order to be licensed as a mobile cosmetology salon by
16 the department, an applicant shall meet, and present to the department
17 evidence of meeting, the following requirements:

18 (1) The proposed salon is a self-contained, self-supporting,
19 enclosed mobile unit;

20 (2)(a)(i) The mobile unit has a global positioning system tracking
21 device that enables the department to track the location of the salon
22 over the Internet;

23 (ii) The device is on board the mobile unit and functioning at all
24 times the salon is in operation or open for business; and

25 (iii) The owner of the salon provides the department with all
26 information necessary to track the salon over the Internet; or

27 (b) The owner of the salon submits to the department, in a manner
28 specified by the department, a weekly itinerary showing the dates, exact
29 locations, and times that cosmetology services are scheduled to be
30 provided. The owner shall submit the itinerary not less than seven
31 calendar days prior to the beginning of the service described in the

1 itinerary and shall submit to the department any changes in the itinerary
2 not less than twenty-four hours prior to the change. A salon shall follow
3 the itinerary in providing service and notify the department of any
4 changes;

5 (3) The salon has insurance coverage which meets the requirements of
6 the department for the mobile unit;

7 (4) The salon is clearly identified as such to the public by a sign;

8 (5) The salon complies with the sanitary requirements of the
9 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
10 Practice Act;

11 (6) The entrance into the proposed salon used by the general public
12 provides safe access by the public;

13 (7) The proposed salon has at least one hundred fifty square feet of
14 floor space. If more than one practitioner is to be employed in the salon
15 at the same time, the salon shall contain an additional space of at least
16 fifty square feet for each additional practitioner; and

17 (8) The proposed salon includes a functional sink and toilet
18 facilities and maintains an adequate supply of clean water and wastewater
19 storage capacity.

20 Sec. 38. Any person seeking a license to operate a mobile
21 cosmetology salon shall submit a completed application to the department,
22 and along with the application, the applicant shall submit a detailed
23 floor plan or blueprint of the proposed salon sufficient to demonstrate
24 compliance with the requirements of section 37 of this act.

25 Sec. 39. Each application for a license to operate a mobile
26 cosmetology salon shall be reviewed by the department for compliance with
27 the requirements of the Cosmetology, Electrology, Esthetics, Nail
28 Technology, and Body Art Practice Act. If an application is denied, the
29 applicant shall be informed in writing of the grounds for denial, and
30 such denial shall not prejudice future applications by the applicant. If
31 an application is approved, the department shall issue the applicant a

1 certificate of consideration to operate a mobile cosmetology salon
2 pending an operation inspection. The department shall conduct an
3 operation inspection of each salon issued a certificate of consideration
4 within six months after the issuance of such certificate. A salon which
5 passes the inspection shall be issued a permanent license. A salon which
6 fails the inspection shall submit within fifteen days evidence of
7 corrective action taken to improve those aspects of operation found
8 deficient. If evidence is not submitted within fifteen days or if after a
9 second inspection the salon does not receive a satisfactory rating, it
10 shall immediately relinquish its certificate of consideration and cease
11 operation.

12 Sec. 40. In order to maintain its license in good standing, each
13 mobile cosmetology salon shall operate in accordance with the following
14 requirements:

15 (1) The salon shall at all times comply with all applicable
16 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
17 and Body Art Practice Act and all rules and regulations adopted and
18 promulgated under the act;

19 (2) The salon owner or his or her agent shall notify the department
20 of any change of ownership, name, or office address and if a salon is
21 permanently closed;

22 (3) No salon shall permit any unlicensed person to perform any of
23 the practices of cosmetology within its confines or employment;

24 (4) The salon shall display a name upon, over, or near the entrance
25 door distinguishing it as a salon;

26 (5) The salon shall permit any duly authorized agent of the
27 department to conduct an operation inspection or investigation at any
28 time during the normal operating hours of the salon, without prior
29 notice, and the owner and manager shall assist the inspector by providing
30 access to all areas of the salon, all personnel, and all records
31 requested by the inspector;

1 (6) The salon shall display in a conspicuous place the following
2 records:

3 (a) The current license or certificate of consideration to operate a
4 salon;

5 (b) The current licenses of all persons licensed under the act who
6 are employed by or working in the salon; and

7 (c) The rating sheet from the most recent operation inspection;

8 (7) At no time shall a salon employ more employees than permitted by
9 the square footage requirements of the Cosmetology, Electrology,
10 Esthetics, Nail Technology, and Body Art Practice Act;

11 (8) No cosmetology services may be performed in a salon while the
12 salon is moving. The salon must be safely and legally parked in a legal
13 parking space at all times while clients are present inside the salon. A
14 salon shall not park or conduct business within three hundred feet of
15 another licensed cosmetology establishment. The department is not
16 responsible for monitoring for enforcement of this subdivision but may
17 discipline a license for a reported and verified violation;

18 (9) The owner of the salon shall maintain a permanent business
19 address at which correspondence from the department may be received and
20 records of appointments, license numbers, and vehicle identification
21 numbers shall be kept for each salon being operated by the owner. The
22 owner shall make such records available for verification and inspection
23 by the department; and

24 (10) The salon shall not knowingly permit its employees or clients
25 to use, consume, serve, or in any manner possess or distribute
26 intoxicating beverages or controlled substances upon its premises.

27 Sec. 41. The procedure for renewing a mobile cosmetology salon
28 license shall be in accordance with section 38-143, except that in
29 addition to all other requirements, the salon shall submit evidence of
30 minimal property damage, bodily injury, and liability insurance coverage
31 for the salon and evidence of coverage which meets the requirements of

1 the Motor Vehicle Registration Act for the salon.

2 Sec. 42. The license of a mobile cosmetology salon that has been
3 revoked or expired for any reason shall not be reinstated. An original
4 application for licensure shall be submitted and approved before such
5 salon may reopen for business.

6 Sec. 43. Each mobile cosmetology salon license issued shall be in
7 effect solely for the owner or owners and the mobile unit named thereon
8 and shall expire automatically upon any change of ownership or mobile
9 unit. An original application for licensure shall be submitted and
10 approved before such salon may reopen for business.

11 Sec. 44. The owner of each mobile cosmetology salon shall have full
12 responsibility for ensuring that the salon is operated in compliance with
13 all applicable laws, rules, and regulations and shall be liable for any
14 and all violations occurring in the salon.

15 Sec. 45. Section 38-10,128, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 38-10,128 In order to be licensed as a nail technician or nail
18 technology instructor by examination, an individual shall meet, and
19 present to the department evidence of meeting, the following
20 requirements:

21 (1) He or she has attained the age of seventeen years on or before
22 the beginning date of the examination for which application is being
23 made;

24 (2) He or she has completed formal education equivalent to a United
25 States high school education;

26 (3) He or she possesses sufficient ability to read the English
27 language to permit the applicant to practice in a safe manner, as
28 evidenced by successful completion of the written examination; and

29 (4) He or she has graduated from a school of cosmetology or nail
30 technology school providing a nail technology program. Evidence of
31 graduation shall include documentation of the total number of hours of

1 training earned and a diploma or certificate from the school to the
2 effect that the applicant has complied with the following:

3 (a) For licensure as a nail technician, the program of studies shall
4 consist of ~~a minimum of not less than one hundred fifty hours and not~~
5 ~~more than~~ three hundred hours, ~~as set by the board~~; and

6 (b) For licensure as a nail technology instructor, the program of
7 studies shall consist of ~~a minimum of not less than one hundred fifty~~
8 ~~hours and not more than~~ three hundred hours, ~~as set by the board~~, beyond
9 the program of studies required for licensure as a nail technician and
10 the individual shall be currently licensed as a nail technician in
11 Nebraska as evidenced by possession of a valid Nebraska nail technician
12 license.

13 The department shall grant a license in the appropriate category to
14 any person meeting the requirements specified in this section.

15 Sec. 46. Section 38-10,129, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 38-10,129 No application for any type of licensure ~~or registration~~
18 shall be considered complete unless all information requested on the
19 application form has been supplied, all seals and signatures required
20 have been obtained, and all supporting and documentary evidence has been
21 received by the department.

22 Sec. 47. Section 38-10,131, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 38-10,131 (1) Examinations approved by the board may be national
25 standardized examinations, but in all cases the examinations shall be
26 related to the knowledge and skills necessary to perform the practices
27 being examined and shall be related to the curricula required to be
28 taught in nail technology programs.

29 ~~(2) At least two examinations shall be given annually.~~

30 (2) ~~(3)~~ In order to successfully complete the examination, an
31 applicant shall obtain an average grade of seventy-five percent on the

1 written examination.

2 Sec. 48. Section 38-10,132, Revised Statutes Supplement, 2017, is
3 amended to read:

4 38-10,132 (1) The department may grant a license based on licensure
5 in another jurisdiction to a nail technician or nail technology
6 instructor who presents proof of the following:

7 (a) He or she has attained the age of seventeen years;

8 (b) He or she has completed formal education equivalent to a United
9 States high school education;

10 (c) He or she is currently licensed as a nail technician or its
11 equivalent or as a nail technology instructor or its equivalent in
12 another jurisdiction and he or she has never been disciplined or had his
13 or her license revoked;

14 (d) For licensure as a nail technician, evidence of completion ~~:(i)~~
15 ~~Completion~~ of a program of nail technician studies consisting of a
16 ~~minimum of not less than one hundred fifty hours and not more than three~~
17 ~~hundred hours, as set by the board,~~ and successful passage of a written
18 examination. If a written examination was not required for licensure in
19 another jurisdiction, the applicant must take the Nebraska written
20 examination. Each month of full-time practice as a nail technician within
21 the five years immediately preceding application shall be valued as
22 equivalent to one hundred hours toward a nail technician license; and ~~or~~

23 ~~(ii) At least twelve months of practice as a nail technician~~
24 ~~following issuance of such license in another jurisdiction; and~~

25 (e) For licensure as a nail technology instructor, evidence of
26 completion ~~:(i)~~ ~~Completion~~ of a program of studies consisting of a
27 ~~minimum of not less than one hundred fifty hours and not more than three~~
28 ~~hundred hours, as set by the board,~~ beyond the program of studies
29 required for licensure in another jurisdiction as a nail technician,
30 successful passage of a written examination, and current licensure as a
31 nail technician in Nebraska as evidenced by possessing a valid Nebraska

1 nail technician license. If a written examination was not required for
2 licensure as a nail technology instructor, the applicant must take the
3 Nebraska written examination. Each month of full-time practice as a nail
4 technology instructor within the five years immediately preceding
5 application shall be valued as equivalent to one hundred hours toward a
6 nail technology instructor license. ~~;~~ ~~or~~

7 ~~(ii) At least twelve months of practice as a nail technology~~
8 ~~instructor following issuance of such license in another jurisdiction.~~

9 (2) An applicant who is a military spouse may apply for a temporary
10 license as provided in section 38-129.01.

11 Sec. 49. Section 38-10,133, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 38-10,133 Every person holding a license ~~or registration~~ in nail
14 technology issued by the department under the Cosmetology, Electrology,
15 Esthetics, Nail Technology, and Body Art Practice Act shall display it in
16 a conspicuous place in his or her principal place of employment, and
17 every nail technology establishment shall so display the then current
18 licenses ~~and registrations~~ of all practitioners there employed.

19 Sec. 50. Section 38-10,135, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-10,135 An applicant for licensure as a nail technology temporary
22 practitioner shall show evidence that his or her completed application
23 for regular licensure has been accepted by the department, that he or she
24 has not failed any portion of the licensure examination, and that he or
25 she has been accepted for work in a licensed nail technology or
26 cosmetology establishment under the supervision of a licensed nail
27 technician or licensed cosmetologist. ~~An individual registered as a~~
28 ~~temporary practitioner on December 1, 2008, shall be deemed to be~~
29 ~~licensed as a temporary practitioner under the Cosmetology, Electrology,~~
30 ~~Esthetics, Nail Technology, and Body Art Practice Act on such date. The~~
31 ~~temporary practitioner may continue to practice under such registration~~

1 ~~as a license until it would have expired under its terms.~~

2 Sec. 51. Section 38-10,142, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-10,142 In order to maintain its license in good standing, each
5 nail technology salon shall operate in accordance with the following
6 requirements:

7 (1) The nail technology salon shall at all times comply with all
8 applicable provisions of the Cosmetology, Electrology, Esthetics, Nail
9 Technology, and Body Art Practice Act and all rules and regulations
10 adopted and promulgated under such act;

11 (2) The nail technology salon owner or his or her agent shall notify
12 the department at least thirty days prior to any change of ownership,
13 name, or address, and at least one week prior to closure, except in
14 emergency circumstances as determined by the department;

15 (3) No nail technology salon shall permit any unlicensed ~~or~~
16 ~~unregistered~~ person to perform any of the practices of nail technology
17 within its confines or employment;

18 (4) The nail technology salon shall display a name upon, over, or
19 near the entrance door distinguishing it as a nail technology salon;

20 (5) The nail technology salon shall permit any duly authorized agent
21 of the department to conduct an operation inspection or investigation at
22 any time during the normal operating hours of the nail technology salon,
23 without prior notice, and the owner and manager shall assist the
24 inspector by providing access to all areas of the nail technology salon,
25 all personnel, and all records requested by the inspector;

26 (6) The nail technology salon shall display in a conspicuous place
27 the following records:

28 (a) The current license or certificate of consideration to operate a
29 nail technology salon;

30 (b) The current licenses ~~or registrations~~ of all persons licensed
31 under the act who are employed by or working in the nail technology

1 salon; and

2 (c) The rating sheet from the most recent operation inspection;

3 (7) At no time shall a nail technology salon employ more employees
4 than permitted by the square footage requirements of the act; and

5 (8) The nail technology salon shall not knowingly permit its
6 employees ~~or clients~~ to use or ~~consume, serve, or in any manner possess~~
7 ~~or distribute~~ intoxicating beverages ~~or controlled substances~~ upon its
8 premises.

9 Sec. 52. Section 38-10,147, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 38-10,147 In order to be licensed as a nail technology school by the
12 department, an applicant shall meet, and present to the department
13 evidence of meeting, the following requirements:

14 (1) The proposed school shall be a fixed, permanent structure or
15 part of one;

16 (2) The proposed school shall have a contracted enrollment of
17 students;

18 (3) The proposed school shall contain at least five hundred square
19 feet of floor space and facilities, staff, apparatus, and equipment
20 appropriate to its projected enrollment in accordance with the standards
21 established by rule and regulation; and

22 (4) The proposed school shall not have the same entrance as or
23 direct access to a cosmetology salon or nail technology salon.

24 Sec. 53. Section 38-10,150, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-10,150 Along with the application, an applicant for a license to
27 operate a nail technology school shall submit:

28 (1) A detailed floor plan or blueprint of the proposed school
29 building sufficient to show compliance with the relevant rules and
30 regulations;

31 (2) Evidence of minimal property damage, personal injury, and

1 liability insurance coverage for the proposed school;

2 (3) A copy of the curriculum to be taught for all courses;

3 (4) A copy of the school catalog, handbook, or policies ~~rules~~ and
4 the student contract; and

5 (5) A list of the names and credentials of all persons licensed ~~or~~
6 ~~registered~~ under the Cosmetology, Electrology, Esthetics, Nail
7 Technology, and Body Art Practice Act to be employed by the school, and
8 ~~the name and qualifications of the school manager;~~

9 ~~(6) A completed nail technology education evaluation scale;~~

10 ~~(7) A schedule of proposed hours of operation and class and course~~
11 ~~scheduling; and~~

12 ~~(8) Any additional information the department may require.~~

13 A nail technology school's license shall be valid only for the
14 location named in the application. When a school desires to change
15 locations, it shall comply with section 38-10,158.

16 Sec. 54. Section 38-10,152, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 38-10,152 In order to maintain its license in good standing, each
19 nail technology school shall operate in accordance with the following
20 requirements:

21 (1) The school shall at all times comply with all applicable
22 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
23 and Body Art Practice Act and all rules and regulations adopted and
24 promulgated under such act;

25 (2) The school owner or owners or their authorized agent shall
26 notify the department at least thirty days prior to any change of
27 ownership, name, or address, and at least sixty days prior to closure,
28 except in emergency circumstances as determined by the department;

29 (3) No school shall permit anyone other than a nail technology
30 student, nail technology student instructor, or nail technology
31 instructor to perform any of the practices of nail technology within its

1 confines or ~~employment employ~~, except that such restriction shall not
2 prevent a school from inviting guest educators who are not licensed to
3 provide education to students or student instructors if the guest
4 educator does not perform any of the practices of nail technology
5 ~~teachers who are not licensed or registered to provide lectures to~~
6 ~~students or student instructors if the guest lecturer does not perform~~
7 ~~any of the practices of nail technology;~~

8 (4) The school shall display a name upon or near the entrance door
9 designating it as a nail technology school;

10 (5) The school shall display in a conspicuous place within the
11 clinic area a sign reading: All services in this school are performed by
12 students who are training in nail technology. A notice to such effect
13 shall also appear in all advertising conducted by the school for its
14 clinic services;

15 (6) The school shall permit any duly authorized agent of the
16 department to conduct an operation inspection or investigation at any
17 time during the normal operating hours of the school without prior
18 notice, and the owner or manager shall assist the inspector by providing
19 access to all areas of the school, all personnel, and all records
20 requested by the inspector;

21 (7) The school shall display in a conspicuous place the following
22 records:

23 (a) The current license to operate a nail technology school;

24 (b) The current licenses ~~or registrations~~ of all persons licensed ~~or~~
25 ~~registered~~ under the act, except students, employed by or working in the
26 school; and

27 (c) The rating sheet from the most recent accreditation inspection;

28 (8) At no time shall a school enroll more students than permitted by
29 the act or the rules and regulations adopted and promulgated under the
30 act;

31 (9) The school shall not knowingly permit its students, employees,

1 or clients to use, consume, serve, or in any other manner possess or
2 distribute intoxicating beverages or controlled substances upon its
3 premises;

4 (10) No nail technology instructor or nail technology student
5 instructor shall perform, and no school shall permit such person to
6 perform, any of the practices of nail technology on the public in a nail
7 technology school other than that part of the practical work which
8 pertains directly to the teaching of practical subjects to nail
9 technology students or nail technology student instructors, and complete
10 nail technology services shall not be provided for a client unless done
11 in a demonstration class of theoretical or practical studies;

12 (11) The school shall maintain space, staff, library, teaching
13 apparatus, and equipment as established by rules and regulations adopted
14 and promulgated under the act;

15 (12) The school shall keep a daily record of the attendance and
16 clinical performance of each student and student instructor;

17 (13) The school shall maintain regular class and instructor hours
18 and shall require the minimum curriculum;

19 (14) The school shall establish and maintain criteria and standards
20 for student grading, evaluation, and performance and shall award a
21 certificate or diploma to a student only upon completing a full course of
22 study in compliance with such standards, except that no student shall
23 receive such certificate or diploma until he or she has satisfied or made
24 an agreement with the school to satisfy all outstanding financial
25 obligations to the school;

26 (15) The school shall maintain on file the enrollment of each
27 student; and

28 (16) The school shall print and provide to each student a copy of
29 the school rules, which shall not be inconsistent with the act or with
30 the rules and regulations adopted and promulgated under such act and
31 which 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, dress,
3 and other information sufficient to advise the student of the standards
4 he or she will be required to maintain. The department may review any
5 school's rules to determine their consistency with the intent and content
6 of the act and the rules and regulations and may overturn any school
7 rules found not to be in accord.

8 Sec. 55. Section 38-10,153, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-10,153 In order to maintain its license in good standing, each
11 nail technology school shall operate in accordance with the following
12 requirements:

13 (1) Every person accepted for enrollment as a standard student shall
14 meet the following qualifications:

15 (a) He or she has attained the age of seventeen years on or before
16 the date of his or her enrollment in a nail technology school;

17 (b) He or she has completed the equivalent of a high school
18 education; and

19 (c) He or she has not undertaken any training in nail technology in
20 this state after January 1, 2000, without being enrolled as a nail
21 technology student;

22 (2)(a) Every person accepted for enrollment as a special study nail
23 technology student shall meet the following requirements:

24 (i) He or she has attained the age of seventeen years on or before
25 the date of enrollment in a nail technology school;

26 (ii) He or she has completed the tenth grade; and

27 (iii) He or she is actively continuing his or her formal high school
28 education on a full-time basis as determined by the department.

29 (b) Special study nail technology students shall be limited to
30 attending a nail technology school for no more than eight hours per week
31 during the school year;

1 (3) ~~Proof of age shall consist of a birth certificate, baptismal~~
2 ~~certificate, or other equivalent document as determined by the~~
3 ~~department. Evidence of education shall consist of a high school diploma,~~
4 ~~general educational development certificate, transcript from a college or~~
5 ~~university, or equivalent document as determined by the department. No~~
6 ~~nail technology school shall accept an individual for enrollment who does~~
7 ~~not provide evidence of meeting the age and education requirements for~~
8 ~~registration;~~

9 (4) Every person accepted for enrollment as a nail technology
10 student instructor shall show evidence of current licensure as a nail
11 technician in Nebraska and completion of formal education equivalent to a
12 United States high school education;

13 (5) The school shall, at all times the school is in operation, have
14 at least one nail technology instructor in the school for each twenty
15 students or fraction thereof enrolled in the school;

16 (6) The school shall not permit any nail technology student to
17 render clinical services on members of the public with or without fees
18 until such student has satisfactorily completed the beginning curriculum,
19 except that the department may establish guidelines by which it may
20 approve such practices as part of the beginning curriculum;

21 (7) No school shall pay direct compensation to any of its nail
22 technology students. Nail technology student instructors may be paid as
23 determined by the school;

24 (8) All nail technology students and nail technology student
25 instructors shall be under the supervision of a cosmetology instructor,
26 nail technology instructor, or nail technology student instructor at all
27 times when nail technology services are being taught or performed;

28 (9) No student shall be permitted by the school to train or work in
29 a school in any manner for more than ten hours a day; and

30 (10) The school shall not credit a nail technology student or nail
31 technology student instructor with hours except when such hours were

1 earned in the study or practice of nail technology in accordance with the
2 required curriculum. Hours shall be credited on a daily basis. Once
3 credited, hours cannot be removed or disallowed except by the department
4 upon a finding that the hours have been wrongfully allowed.

5 Sec. 56. Section 38-10,154, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 38-10,154 Nail technology students or nail technology student
8 instructors may transfer from one nail technology school ~~in Nebraska~~ to
9 another school at any time.

10 The school to which the student is transferring shall be entitled to
11 receive from the student's previous school, upon request, any and all
12 records pertaining to the student after all financial obligations of the
13 student to the previous school are met.

14 Sec. 57. Section 38-10,156, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-10,156 No nail technology school shall at any time enroll more
17 than two ~~one~~ nail technology student instructors ~~instructor~~ for each
18 full-time nail technology instructor or cosmetology instructor actively
19 working in and employed by the school.

20 Sec. 58. In order to be licensed as a mobile nail technology salon
21 by the department, an applicant shall meet, and present to the department
22 evidence of meeting, the following requirements:

23 (1) The proposed salon is a self-contained, self-supporting,
24 enclosed mobile unit;

25 (2)(a)(i) The mobile unit has a global positioning system tracking
26 device that enables the department to track the location of the salon
27 over the Internet;

28 (ii) The device is on board the mobile unit and functioning at all
29 times the salon is in operation or open for business; and

30 (iii) The owner of the salon provides the department with all
31 information necessary to track the salon over the Internet; or

1 (b) The owner of the salon submits to the department, in a manner
2 specified by the department, a weekly itinerary showing the dates, exact
3 locations, and times that nail technology services are scheduled to be
4 provided. The owner shall submit the itinerary not less than seven
5 calendar days prior to the beginning of the service described in the
6 itinerary and shall submit to the department any changes in the itinerary
7 not less than twenty-four hours prior to the change. A salon shall follow
8 the itinerary in providing service and notify the department of any
9 changes;

10 (3) The salon has insurance coverage which meets the requirements of
11 the department for the mobile unit;

12 (4) The salon is clearly identified as such to the public by a sign;

13 (5) The salon complies with the sanitary requirements of the
14 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
15 Practice Act;

16 (6) The entrance into the proposed salon used by the general public
17 provides safe access by the public;

18 (7) The proposed salon has at least one hundred fifty square feet of
19 floor space. If more than one practitioner is to be employed in the salon
20 at the same time, the salon shall contain an additional space of at least
21 fifty square feet for each additional practitioner; and

22 (8) The proposed salon includes a functional sink and toilet
23 facilities and maintains an adequate supply of clean water and wastewater
24 storage capacity.

25 Sec. 59. Any person seeking a license to operate a mobile nail
26 technology salon shall submit a completed application to the department,
27 and along with the application, the applicant shall submit a detailed
28 floor plan or blueprint of the proposed salon sufficient to demonstrate
29 compliance with the requirements of section 58 of this act.

30 Sec. 60. Each application for a license to operate a mobile nail
31 technology salon shall be reviewed by the department for compliance with

1 the requirements of the Cosmetology, Electrology, Esthetics, Nail
2 Technology, and Body Art Practice Act. If an application is denied, the
3 applicant shall be informed in writing of the grounds for denial, and
4 such denial shall not prejudice future applications by the applicant. If
5 an application is approved, the department shall issue the applicant a
6 certificate of consideration to operate a mobile nail technology salon
7 pending an operation inspection. The department shall conduct an
8 operation inspection of each salon issued a certificate of consideration
9 within six months after the issuance of such certificate. A salon which
10 passes the inspection shall be issued a permanent license. A salon which
11 fails the inspection shall submit within fifteen days evidence of
12 corrective action taken to improve those aspects of operation found
13 deficient. If evidence is not submitted within fifteen days or if after a
14 second inspection the salon does not receive a satisfactory rating, it
15 shall immediately relinquish its certificate of consideration and cease
16 operation.

17 Sec. 61. In order to maintain its license in good standing, each
18 mobile nail technology salon shall operate in accordance with the
19 following requirements:

20 (1) The salon shall at all times comply with all applicable
21 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
22 and Body Art Practice Act and all rules and regulations adopted and
23 promulgated under the act;

24 (2) The salon owner or his or her agent shall notify the department
25 of any change of ownership, name, or office address and if a salon is
26 permanently closed;

27 (3) No salon shall permit any unlicensed person to perform any of
28 the practices of nail technology within its confines or employment;

29 (4) The salon shall display a name upon, over, or near the entrance
30 door distinguishing it as a salon;

31 (5) The salon shall permit any duly authorized agent of the

1 department to conduct an operation inspection or investigation at any
2 time during the normal operating hours of the salon, without prior
3 notice, and the owner and manager shall assist the inspector by providing
4 access to all areas of the salon, all personnel, and all records
5 requested by the inspector;

6 (6) The salon shall display in a conspicuous place the following
7 records:

8 (a) The current license or certificate of consideration to operate a
9 salon;

10 (b) The current licenses of all persons licensed under the act who
11 are employed by or working in the salon; and

12 (c) The rating sheet from the most recent operation inspection;

13 (7) At no time shall a salon employ more employees than permitted by
14 the square footage requirements of the Cosmetology, Electrology,
15 Esthetics, Nail Technology, and Body Art Practice Act;

16 (8) No nail technology services may be performed in a salon while
17 the salon is moving. The salon must be safely and legally parked in a
18 legal parking space at all times while clients are present inside the
19 salon. A salon shall not park or conduct business within three hundred
20 feet of another licensed nail technology establishment. The department is
21 not responsible for monitoring for enforcement of this subdivision but
22 may discipline a license for a reported and verified violation;

23 (9) The owner of the salon shall maintain a permanent business
24 address at which correspondence from the department may be received and
25 records of appointments, license numbers, and vehicle identification
26 numbers shall be kept for each salon being operated by the owner. The
27 owner shall make such records available for verification and inspection
28 by the department; and

29 (10) The salon shall not knowingly permit its employees or clients
30 to use, consume, serve, or in any manner possess or distribute
31 intoxicating beverages or controlled substances upon its premises.

1 Sec. 62. The procedure for renewing a mobile nail technology salon
2 license shall be in accordance with section 38-143, except that in
3 addition to all other requirements, the salon shall submit evidence of
4 minimal property damage, bodily injury, and liability insurance coverage
5 for the salon and evidence of coverage which meets the requirements of
6 the Motor Vehicle Registration Act for the salon.

7 Sec. 63. The license of a mobile nail technology salon that has
8 been revoked or expired for any reason shall not be reinstated. An
9 original application for licensure shall be submitted and approved before
10 such salon may reopen for business.

11 Sec. 64. Each mobile nail technology salon license issued shall be
12 in effect solely for the owner or owners and the mobile unit named
13 thereon and shall expire automatically upon any change of ownership or
14 mobile unit. An original application for licensure shall be submitted and
15 approved before such salon may reopen for business.

16 Sec. 65. The owner of each mobile nail technology salon shall have
17 full responsibility for ensuring that the salon is operated in compliance
18 with all applicable laws, rules, and regulations and shall be liable for
19 any and all violations occurring in the salon.

20 Sec. 66. Section 38-10,171, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 38-10,171 Each of the following may be considered an act of
23 unprofessional conduct when committed by a person licensed ~~or registered~~
24 under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body
25 Art Practice Act:

26 (1) Performing any of the practices regulated under the act for
27 which an individual is not licensed ~~or registered~~ or operating an
28 establishment or facility without the appropriate license;

29 (2) Obstructing, interfering, or failing to cooperate with an
30 inspection or investigation conducted by an authorized representative of
31 the department when acting in accordance with the act;

1 (3) Failing to report to the department a suspected violation of the
2 act;

3 (4) Aiding and abetting an individual to practice any of the
4 practices regulated under the act for which he or she is not licensed ~~or~~
5 registered;

6 (5) Engaging in any of the practices regulated under the act for
7 compensation in an unauthorized location;

8 (6) Engaging in the practice of any healing art or profession for
9 which a license is required without holding such a license;

10 (7) Enrolling a student or an apprentice without obtaining the
11 appropriate documents prior to enrollment;

12 (8) Knowingly falsifying any student or apprentice record or report;

13 (9) Initiating or continuing home services to a client who does not
14 meet the criteria established in the act;

15 (10) Knowingly issuing a certificate of completion or diploma to a
16 student or an apprentice who has not completed all requirements for the
17 issuance of such document;

18 (11) Failing, by a school of cosmetology, a nail technology school,
19 a school of esthetics, or an apprentice salon, to follow its published
20 rules;

21 (12) Violating, by a school of cosmetology, nail technology school,
22 or school of esthetics, any federal or state law involving the operation
23 of a vocational school or violating any federal or state law involving
24 participation in any federal or state loan or grant program;

25 (13) Knowingly permitting any person under supervision to violate
26 any law, rule, or regulation or knowingly permitting any establishment or
27 facility under supervision to operate in violation of any law, rule, or
28 regulation;

29 (14) Receiving two unsatisfactory inspection reports within any
30 sixty-day period;

31 (15) Engaging in any of the practices regulated under the act while

1 afflicted with any active case of a serious contagious disease,
2 infection, or infestation, as determined by the department, or in any
3 other circumstances when such practice might be harmful to the health or
4 safety of clients;

5 (16) Violating any rule or regulation relating to the practice of
6 body art; and

7 (17) Performing body art on or to any person under eighteen years of
8 age (a) without the prior written consent of the parent or court-
9 appointed guardian of such person, (b) without the presence of such
10 parent or guardian during the procedure, or (c) without retaining a copy
11 of such consent for a period of five years.

12 Sec. 67. Section 38-2801, Revised Statutes Supplement, 2017, is
13 amended to read:

14 38-2801 Sections 38-2801 to 38-28,107 and sections 70 to 72 of this
15 act and the Nebraska Drug Product Selection Act shall be known and may be
16 cited as the Pharmacy Practice Act.

17 Sec. 68. Section 38-2802, Revised Statutes Supplement, 2017, is
18 amended to read:

19 38-2802 For purposes of the Pharmacy Practice Act and elsewhere in
20 the Uniform Credentialing Act, unless the context otherwise requires, the
21 definitions found in sections 38-2803 to 38-2848 and sections 70 to 72 of
22 this act apply.

23 Sec. 69. Section 38-2833, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 38-2833 Pharmacist in charge means a pharmacist who is designated on
26 a pharmacy license or a remote dispensing pharmacy license or designated
27 by a hospital as being responsible for the practice of pharmacy in the
28 pharmacy for which a pharmacy license or a remote dispensing pharmacy
29 license is issued or in a hospital pharmacy and who works within the
30 physical confines of such pharmacy or hospital pharmacy, except that the
31 pharmacist in charge is not required to work within the physical confines

1 of a remote dispensing pharmacy unless otherwise required by law.

2 Sec. 70. Remote dispensing has the same meaning as in section 95 of
3 this act.

4 Sec. 71. Remote dispensing pharmacy has the same meaning as in
5 section 96 of this act.

6 Sec. 72. Supervising pharmacy has the same meaning as in section 97
7 of this act.

8 Sec. 73. Section 38-2847, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-2847 (1) Verification means the confirmation by a supervising
11 pharmacist of the accuracy and completeness of the acts, tasks, or
12 functions undertaken by a pharmacy technician to assist the pharmacist in
13 the practice of pharmacy.

14 (2) Verification shall occur by a pharmacist on duty in the
15 facility, except that verification may occur by means of a real-time
16 audiovisual communication system if (a) a pharmacy technician performs
17 authorized activities or functions to assist a pharmacist and the
18 prescribed drugs or devices will be administered to persons who are
19 patients or residents of a facility by a credentialed individual
20 authorized to administer medications or (b) a pharmacy technician is
21 engaged in remote dispensing in compliance with section 98 of this act -
22 ~~verification may occur by means of a real-time audiovisual communication~~
23 ~~system.~~

24 Sec. 74. Section 38-2870, Revised Statutes Supplement, 2017, is
25 amended to read:

26 38-2870 (1) All medical orders shall be written, oral, or electronic
27 and shall be valid for the period stated in the medical order, except
28 that (a) if the medical order is for a controlled substance listed in
29 section 28-405, such period shall not exceed six months from the date of
30 issuance at which time the medical order shall expire and (b) if the
31 medical order is for a drug or device which is not a controlled substance

1 listed in section 28-405 or is an order issued by a practitioner for
2 pharmaceutical care, such period shall not exceed twelve months from the
3 date of issuance at which time the medical order shall expire.

4 (2) Prescription drugs or devices may only be dispensed by a
5 pharmacist or pharmacist intern pursuant to a medical order, by an
6 individual dispensing pursuant to a delegated dispensing permit, or as
7 otherwise provided in section 38-2850. Notwithstanding any other
8 provision of law to the contrary, a pharmacist or a pharmacist intern may
9 dispense drugs or devices pursuant to a medical order or an individual
10 dispensing pursuant to a delegated dispensing permit may dispense drugs
11 or devices pursuant to a medical order. The Pharmacy Practice Act shall
12 not be construed to require any pharmacist or pharmacist intern to
13 dispense, compound, administer, or prepare for administration any drug or
14 device pursuant to any medical order. A pharmacist or pharmacist intern
15 shall retain the professional right to refuse to dispense.

16 (3) Except as otherwise provided in sections 28-414 and 28-414.01, a
17 practitioner or the practitioner's agent may transmit a medical order to
18 a pharmacist or pharmacist intern and an authorized refill to a
19 pharmacist, pharmacist intern, or pharmacy technician by the following
20 means: (a) In writing, (b) orally, (c) by facsimile transmission of a
21 written medical order or electronic transmission of a medical order
22 signed by the practitioner, or (d) by facsimile transmission of a written
23 medical order or electronic transmission of a medical order which is not
24 signed by the practitioner. Such an unsigned medical order shall be
25 verified with the practitioner.

26 (4)(a) Except as otherwise provided in sections 28-414 and
27 28-414.01, any medical order transmitted by facsimile or electronic
28 transmission shall:

29 (i) Be transmitted by the practitioner or the practitioner's agent
30 directly to a pharmacist or pharmacist intern in a licensed pharmacy of
31 the patient's choice; and any authorized refill transmitted by facsimile

1 or electronic transmission shall be transmitted by the practitioner or
2 the practitioner's agent directly to a pharmacist, pharmacist intern, or
3 pharmacy technician. No intervening person shall be permitted access to
4 the medical order to alter such order or the licensed pharmacy chosen by
5 the patient. Such medical order may be transmitted through a third-party
6 intermediary who shall facilitate the transmission of the order from the
7 practitioner or practitioner's agent to the pharmacy;

8 (ii) Identify the transmitter's telephone number or other suitable
9 information necessary to contact the transmitter for written or oral
10 confirmation, the time and date of the transmission, the identity of the
11 pharmacy intended to receive the transmission, and other information as
12 required by law; and

13 (iii) Serve as the original medical order if all other requirements
14 of this subsection are satisfied.

15 (b) Medical orders transmitted by electronic transmission shall be
16 signed by the practitioner either with an electronic signature for legend
17 drugs which are not controlled substances or a digital signature for
18 legend drugs which are controlled substances.

19 (5) The pharmacist shall exercise professional judgment regarding
20 the accuracy, validity, and authenticity of any medical order transmitted
21 by facsimile or electronic transmission.

22 (6) The quantity of drug indicated in a medical order for a resident
23 of a long-term care facility shall be sixty days unless otherwise limited
24 by the prescribing practitioner.

25 Sec. 75. Section 38-2891, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 38-2891 (1) A pharmacy technician shall only perform tasks which do
28 not require the professional judgment of a pharmacist and which are
29 subject to verification to assist a pharmacist in the practice of
30 pharmacy.

31 (2) The functions and tasks which shall not be performed by pharmacy

1 technicians include, but are not limited to:

2 (a) Receiving oral medical orders from a practitioner or his or her
3 agent except as otherwise provided in subsection (3) of section 38-2870;

4 (b) Providing patient counseling;

5 (c) Performing any evaluation or necessary clarification of a
6 medical order or performing any functions other than strictly clerical
7 functions involving a medical order;

8 (d) Supervising or verifying the tasks and functions of pharmacy
9 technicians;

10 (e) Interpreting or evaluating the data contained in a patient's
11 record maintained pursuant to section 38-2869;

12 (f) Releasing any confidential information maintained by the
13 pharmacy;

14 (g) Performing any professional consultations; and

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

17 (3) The director shall, with the recommendation of the board, waive
18 any of the limitations in subsection (2) of this section for purposes of
19 a scientific study of the role of pharmacy technicians approved by the
20 board. Such study shall be based upon providing improved patient care or
21 enhanced pharmaceutical care. Any such waiver shall state the length of
22 the study and shall require that all study data and results be made
23 available to the board upon the completion of the study. Nothing in this
24 subsection requires the board to approve any study proposed under this
25 subsection.

26 Sec. 76. Section 38-2892, Revised Statutes Supplement, 2017, is
27 amended to read:

28 38-2892 (1) The pharmacist in charge of a pharmacy, remote
29 dispensing pharmacy, or hospital pharmacy employing pharmacy technicians
30 shall be responsible for the supervision and performance of the pharmacy
31 technicians.

1 (2) Except as otherwise provided in the Automated Medication Systems
2 Act, the supervision of pharmacy technicians at a pharmacy shall be
3 performed by the pharmacist who is on duty in the facility with the
4 pharmacy technicians or located in pharmacies that utilize a real-time,
5 online data base and have a pharmacist in all pharmacies. The supervision
6 of pharmacy technicians at a remote dispensing pharmacy or hospital
7 pharmacy shall be performed by the pharmacist assigned by the pharmacist
8 in charge to be responsible for the supervision and verification of the
9 activities of the pharmacy technicians.

10 Sec. 77. Section 38-28,106, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 38-28,106 An employee or agent of a prescribing practitioner may
13 communicate a prescription, chart order, or refill authorization issued
14 by the prescribing practitioner to a pharmacist or a pharmacist intern
15 except for an emergency oral authorization for a controlled substance
16 listed in Schedule II of section 28-405. An employee or agent of a
17 prescribing practitioner may communicate a refill authorization issued by
18 the prescribing practitioner to a pharmacy technician.

19 Sec. 78. Section 38-3208, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-3208 The Respiratory Care Practice Act shall not prohibit:

22 (1) The practice of respiratory care which is an integral part of
23 the program of study by students enrolled in approved respiratory care
24 education programs;

25 (2) The gratuitous care, including the practice of respiratory care,
26 of the ill by a friend or member of the family or by a person who is not
27 licensed to practice respiratory care if such person does not represent
28 himself or herself as a respiratory care practitioner;

29 (3) The practice of respiratory care by nurses, physicians,
30 physician assistants, physical therapists, or any other professional
31 required to be licensed under the Uniform Credentialing Act when such

1 practice is within the scope of practice for which that person is
2 licensed to practice in this state;

3 (4) The practice of any respiratory care practitioner of this state
4 or any other state or territory while employed by the federal government
5 or any bureau or division thereof while in the discharge of his or her
6 official duties;

7 (5) Techniques defined as pulmonary function testing and the
8 administration of aerosol and inhalant medications to the
9 cardiorespiratory system as it relates to pulmonary function technology
10 administered by a registered pulmonary function technologist credentialed
11 by the National Board for Respiratory Care or a certified pulmonary
12 function technologist credentialed by the National Board for Respiratory
13 Care; or

14 (6) The performance of oxygen therapy or the initiation of
15 noninvasive positive pressure ventilation by a registered
16 polysomnographic technologist relating to the study of sleep disorders if
17 such procedures are performed or initiated under the supervision of a
18 licensed physician at a facility accredited by the American Academy of
19 Sleep Medicine.

20 Sec. 79. Section 71-202.01, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 71-202.01 For purposes of the Barber Act, unless the context
23 otherwise requires:

24 (1) Barber shall mean any person who engages in the practice of any
25 act of barbering;

26 (2) Barber pole shall mean a cylinder or pole with alternating
27 stripes of red, white, and blue or any combination of them which run
28 diagonally along the length of the cylinder or pole;

29 (3) Barber shop shall mean (a) an establishment or place of business
30 properly licensed as required by the act where one or more persons
31 properly licensed are engaged in the practice of barbering or (b) a

1 mobile barber shop. Barber shop ~~but~~ shall not include barber schools or
2 colleges;

3 (4) Barber school or college shall mean an establishment properly
4 licensed and operated for the teaching and training of barber students;

5 (5) Board shall mean the Board of Barber Examiners;

6 (6) Manager shall mean a licensed barber having control of the
7 barber shop and of the persons working or employed therein;

8 (7) License shall mean a certificate of registration issued by the
9 board;

10 (8) Barber instructor shall mean a teacher of the barber trade as
11 provided in the act;

12 (9) Assistant barber instructor shall mean a teacher of the
13 barbering trade registered as an assistant barber instructor as required
14 by the act;

15 (10) Mobile barber shop shall mean a self-contained, self-
16 supporting, enclosed mobile unit licensed under the act as a mobile site
17 for the performance of the practice of barbering by persons licensed
18 under the act;

19 (11) ~~(10)~~ Registered or licensed barber shall mean a person who has
20 completed the requirements to receive a certificate as a barber and to
21 whom a certificate has been issued;

22 (12) ~~(11)~~ Secretary of the board shall mean the director appointed
23 by the board who shall keep a record of the proceedings of the board;

24 (13) ~~(12)~~ Student shall mean a person attending an approved,
25 licensed barber school or college, duly registered with the board as a
26 student engaged in learning and acquiring any and all of the practices of
27 barbering, and who, while learning, performs and assists any of the
28 practices of barbering in a barber school or college; and

29 (14) ~~(13)~~ Postsecondary barber school or college shall mean an
30 establishment properly licensed and operated for the teaching and
31 training of barber students who have successfully completed high school

1 or its equivalent as determined by successfully passing a general
2 educational development test prior to admittance.

3 Sec. 80. Section 71-203, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 71-203 The following persons are exempt from the Barber Act while in
6 the proper discharge of their professional or occupational duties: (1)
7 Persons authorized by the laws of this state to practice medicine and
8 surgery; (2) commissioned medical or surgical officers of the United
9 States military services; (3) registered or licensed practical nurses;
10 and (4) persons engaged in operating or employed in cosmetology
11 establishments salons, except that nothing contained in this section
12 shall authorize a cosmetologist to perform barbering as defined in
13 section 71-202 in any licensed barber shop.

14 Sec. 81. Section 71-204, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 71-204 A person is qualified to receive a certificate of
17 registration to practice barbering (1) who has a diploma showing
18 graduation from high school or an equivalent education as determined by
19 passing a general education development test; (2) who is at least
20 seventeen years of age; (3) who has completed one ~~two~~ thousand eight ~~one~~
21 hundred hours of training in a barber school or college; (4) who has
22 graduated from a barber school or college approved by the Board of Barber
23 Examiners; and (5) who has passed an examination conducted by the Board
24 of Barber Examiners to determine his or her fitness to practice
25 barbering, ~~which examination shall be taken within two years after the~~
26 ~~date of entry into barbering school.~~

27 Sec. 82. Section 71-208, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 71-208 The Legislature finds that, through licensing of barber
30 schools, the Board of Barber Examiners approves barbering programs which
31 lead to a certificate or diploma in Nebraska. No barber school or college

1 shall be approved by the board unless (1)(a) a barber school or college
2 that operates as a postsecondary barber school or college requires, as a
3 prerequisite to admission, high school graduation or its equivalent as
4 determined by successfully passing a general educational development test
5 or (b) a barber school or college that does not operate as a
6 postsecondary barber school or college requires, as a prerequisite to
7 graduation from such school or college, high school graduation or its
8 equivalent as determined by successfully passing a general educational
9 development test, (2) as a prerequisite to graduation it requires a
10 course of instruction of not less than ~~one~~ ~~two~~ thousand eight ~~one~~ hundred
11 hours, to be completed in ~~a period of not less than one year,~~ of not more
12 than ten hours in any one working day, and (3) the barber school or
13 college meets the standards of the Barber Act and any rules and
14 regulations of the board. Such course of instruction shall include
15 scientific fundamentals for barbering, hygiene, massaging, sterilization,
16 haircutting, and shaving, except that when a barber school or college is
17 a part of a high school accredited by the State Board of Education or the
18 University of Nebraska, the Board of Barber Examiners shall provide in
19 its rules and regulations that credit in the barber school or college
20 shall be given for hours spent and courses pursued in the high school and
21 that credit shall be given for courses in barbering taken in high school
22 prior to formal enrollment in such barber school or college.

23 Sec. 83. Section 71-208.08, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 71-208.08 (1) Cosmetologists licensed in the State of Nebraska
26 attending a barber school or college ~~may of barbering shall~~ be given
27 credit of one thousand hours of training applied ~~credit~~ toward the course
28 hours required for graduation.

29 (2) Barbers licensed in the State of Nebraska attending a school of
30 cosmetology may be given credit of one thousand hours of training applied
31 toward the course hours required for graduation.

1 Sec. 84. In order to be licensed as a mobile barber shop by the
2 board, an applicant shall, in addition to the requirements of the Barber
3 Act, meet, and present to the board evidence of meeting, the following
4 requirements:

5 (1) The proposed barber shop is a self-contained, self-supporting,
6 enclosed mobile unit;

7 (2)(a)(i) The mobile unit has a global positioning system tracking
8 device that enables the board to track the location of the barber shop
9 over the Internet;

10 (ii) The device is on board the mobile unit and functioning at all
11 times the barber shop is in operation or open for business; and

12 (iii) The owner of the barber shop provides the board with all
13 information necessary to track the barber shop over the Internet; or

14 (b) The owner of the barber shop submits to the board, in a manner
15 specified by the board, a weekly itinerary showing the dates, exact
16 locations, and times that barbering services are scheduled to be
17 provided. The owner shall submit the itinerary not less than seven
18 calendar days prior to the beginning of the service described in the
19 itinerary and shall submit to the board any changes in the itinerary not
20 less than twenty-four hours prior to the change. A barber shop shall
21 follow the itinerary in providing service and notify the board of any
22 changes;

23 (3) The barber shop is clearly identified as such to the public by a
24 sign;

25 (4) The barber shop complies with the sanitary requirements of the
26 Barber Act and the rules and regulations adopted and promulgated under
27 the act;

28 (5) The entrance into the proposed barber shop used by the general
29 public provides safe access by the public; and

30 (6) The proposed barber shop includes a functional sink and toilet
31 facilities and maintains an adequate supply of clean water and wastewater

1 storage capacity.

2 Sec. 85. Any person seeking a license to operate a mobile barber
3 shop shall submit a completed application to the board as provided in
4 section 71-219.02, and along with the application, the applicant shall
5 submit a detailed floor plan or blueprint of the proposed barber shop
6 sufficient to demonstrate compliance with the requirements of section 84
7 of this act.

8 Sec. 86. In addition to the requirements of the Barber Act, each
9 application for a license to operate a mobile barber shop shall be
10 reviewed by the board for compliance with the requirements of the Barber
11 Act. If an application is denied, the applicant shall be informed in
12 writing of the grounds for denial, and such denial shall not prejudice
13 future applications by the applicant. If an application is approved, the
14 board shall issue the applicant a certificate of consideration to operate
15 a mobile barber shop pending an operation inspection. The board shall
16 conduct an operation inspection of each barber shop issued a certificate
17 of consideration within six months after the issuance of such
18 certificate. A barber shop which passes the inspection shall be issued a
19 license. A barber shop which fails the inspection shall submit within
20 fifteen days evidence of corrective action taken to improve those aspects
21 of operation found deficient. If evidence is not submitted within fifteen
22 days or if after a second inspection the barber shop does not receive a
23 satisfactory rating, it shall immediately relinquish its certificate of
24 consideration and cease operation.

25 Sec. 87. In order to maintain its license in good standing, each
26 mobile barber shop shall operate in accordance with the following
27 requirements:

28 (1) The barber shop shall at all times comply with all applicable
29 provisions of the Barber Act and all rules and regulations adopted and
30 promulgated under the act;

31 (2) The barber shop owner or his or her agent shall notify the board

1 of any change of ownership, name, or office address and if a barber shop
2 is permanently closed;

3 (3) No barber shop shall permit any unlicensed person to perform any
4 of the practices of barbering within its confines or employment;

5 (4) The barber shop shall display a name upon, over, or near the
6 entrance door distinguishing it as a barber shop;

7 (5) The barber shop shall permit any duly authorized agent of the
8 board to conduct an operation inspection or investigation at any time
9 during the normal operating hours of the barber shop, without prior
10 notice, and the owner and manager shall assist the inspector by providing
11 access to all areas of the barber shop, all personnel, and all records
12 requested by the inspector;

13 (6) The barber shop shall display in a conspicuous place the
14 following records:

15 (a) The current license or certificate of consideration to operate a
16 barber shop; and

17 (b) The current licenses of all persons licensed under the act who
18 are employed by or working in the barber shop;

19 (7) No barbering practices may be performed in a barber shop while
20 the barber shop is moving. The barber shop must be safely and legally
21 parked in a legal parking space at all times while clients are present
22 inside the barber shop. A barber shop shall not park or conduct business
23 within three hundred feet of another licensed barber shop. The board is
24 not responsible for monitoring for enforcement of this subdivision but
25 may discipline a license for a reported and verified violation; and

26 (8) The owner of the barber shop shall maintain a permanent business
27 address at which correspondence from the board may be received and
28 records of appointments, license numbers, and vehicle identification
29 numbers shall be kept for each barber shop being operated by the owner.
30 The owner shall make such records available for verification and
31 inspection by the board.

1 Sec. 88. The license of a mobile barber shop that has been revoked
2 or expired for any reason shall not be reinstated. An original
3 application for licensure shall be submitted and approved before such
4 barber shop may reopen for business.

5 Sec. 89. Each mobile barber shop license issued shall be in effect
6 solely for the owner or owners and the mobile unit named thereon and
7 shall expire automatically upon any change of ownership or mobile unit.
8 An original application for licensure shall be submitted and approved
9 before such barber shop may reopen for business.

10 Sec. 90. The owner of each mobile barber shop shall have full
11 responsibility for ensuring that the barber shop is operated in
12 compliance with all applicable laws, rules, and regulations and shall be
13 liable for any and all violations occurring in the barber shop.

14 Sec. 91. Section 71-224, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 71-224 Sections 71-201 to 71-248 and sections 84 to 90 of this act
17 shall be known and may be cited as the Barber Act.

18 Sec. 92. Section 71-401, Revised Statutes Supplement, 2017, is
19 amended to read:

20 71-401 Sections 71-401 to 71-475 and sections 95 to 98 of this act
21 shall be known and may be cited as the Health Care Facility Licensure
22 Act.

23 Sec. 93. Section 71-403, Revised Statutes Cumulative Supplement,
24 2016, is amended to read:

25 71-403 For purposes of the Health Care Facility Licensure Act,
26 unless the context otherwise requires, the definitions found in sections
27 71-404 to 71-431 and sections 95 to 97 of this act shall apply.

28 Sec. 94. Section 71-425, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 71-425 Pharmacy means a facility advertised as a pharmacy, drug
31 store, hospital pharmacy, dispensary, remote dispensing pharmacy, or any

1 combination of such titles where drugs or devices are dispensed as
2 defined in the Pharmacy Practice Act.

3 Sec. 95. Remote dispensing means dispensing that occurs using
4 remote supervision in compliance with section 98 of this act.

5 Sec. 96. Remote dispensing pharmacy means a pharmacy staffed by
6 certified pharmacy technicians in Nebraska in which remote dispensing may
7 occur.

8 Sec. 97. Supervising pharmacy means a pharmacy licensed and located
9 in Nebraska that owns and operates a licensed remote dispensing pharmacy.

10 Sec. 98. (1) A pharmacy shall obtain a remote dispensing pharmacy
11 license under the Health Care Facility Licensure Act prior to engaging in
12 remote dispensing. A pharmacy shall not be licensed as both a remote
13 dispensing pharmacy and a pharmacy. At the time of initial licensure as a
14 remote dispensing pharmacy, the remote dispensing pharmacy must be
15 located ten driving miles or more from the nearest pharmacy. The remote
16 dispensing pharmacy shall operate in accordance with this section.

17 (2) If the remote dispensing pharmacy employs a certified pharmacy
18 technician to dispense prescription drugs, remote dispensing shall occur
19 under remote supervision via a real-time audiovisual communication system
20 by a licensed pharmacist employed by a supervising pharmacy. The licensed
21 pharmacist must be licensed and located in Nebraska. If the real-time
22 audiovisual communication system between the remote dispensing pharmacy
23 and supervising pharmacy is not working, no remote dispensing can be
24 completed at the remote dispensing pharmacy until the real-time
25 audiovisual communication system is restored and working properly.

26 (3) The remote dispensing pharmacy must have the same pharmacist in
27 charge as the supervising pharmacy. The pharmacist in charge must ensure
28 that a pharmacist is onsite at the remote dispensing pharmacy at a
29 minimum of once each calendar month. The pharmacist in charge in the
30 supervising pharmacy may delegate tasks to another pharmacist who is
31 employed by the supervising pharmacy, such as supervision of the

1 certified pharmacy technician working remotely in the remote dispensing
2 pharmacy, oversight of inventory, patient counseling, and other duties as
3 assigned. The pharmacist supervising the certified pharmacy technician
4 remotely is responsible for the drug utilization review, the final
5 verification, and the supervision of the remote dispensing at the remote
6 dispensing pharmacy.

7 (4) In order for remote dispensing to occur in a remote dispensing
8 pharmacy:

9 (a) When a prescription is being dispensed to a patient or
10 caregiver, the supervising pharmacist must attempt to counsel on all new
11 prescriptions dispensed from the remote dispensing pharmacy; and

12 (b) The real-time audiovisual communication system must be working
13 properly.

14 Sec. 99. Section 71-2448, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 71-2448 A prescription medication distribution machine:

17 (1) Is subject to the requirements of section 71-2447 and, if it is
18 in a long-term care automated pharmacy, is subject to section 71-2451;
19 and

20 (2) May be operated only (a) in a licensed pharmacy where a
21 pharmacist dispenses medications to patients for self-administration
22 pursuant to a prescription, (b) in a remote dispensing pharmacy as
23 described in section 98 of this act, or (c) ~~(b)~~ in a long-term care
24 automated pharmacy subject to section 71-2451.

25 Sec. 100. Section 71-2483, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 71-2483 An employee or agent of a prescribing practitioner may
28 communicate a prescription, chart order, or refill authorization issued
29 by the prescribing practitioner to a pharmacist or a pharmacist intern
30 except for an emergency oral authorization for a controlled substance
31 listed in Schedule II of section 28-405. An employee or agent of a

1 prescribing practitioner may communicate a refill authorization issued by
2 the prescribing practitioner to a pharmacy technician.

3 Sec. 101. The State of Nebraska adopts the Physical Therapy
4 Licensure Compact in the form substantially as follows:

5 ARTICLE I

6 PURPOSE

7 a. The purpose of the Physical Therapy Licensure Compact is to
8 facilitate interstate practice of physical therapy with the goal of
9 improving public access to physical therapy services. The practice of
10 physical therapy occurs in the state where the patient or client is
11 located at the time of the patient or client encounter. The Compact
12 preserves the regulatory authority of states to protect public health and
13 safety through the current system of state licensure.

14 b. This Compact is designed to achieve the following objectives:

15 1. Increase public access to physical therapy services by providing
16 for the mutual recognition of other member state licenses;

17 2. Enhance the states' ability to protect the public's health and
18 safety;

19 3. Encourage the cooperation of member states in regulating
20 multistate physical therapy practice;

21 4. Support spouses of relocating military members;

22 5. Enhance the exchange of licensure, investigative, and
23 disciplinary information between member states; and

24 6. Allow a remote state to hold a provider of services with a
25 compact privilege in that state accountable to that state's practice
26 standards.

27 ARTICLE II

28 DEFINITIONS

29 As used in the Physical Therapy Licensure Compact, and except as
30 otherwise provided, the following definitions shall apply:

31 1. Active duty military means full-time duty status in the active

1 uniformed service of the United States, including members of the National
2 Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and
3 1211.

4 2. Adverse action means disciplinary action taken by a physical
5 therapy licensing board based upon misconduct, unacceptable performance,
6 or a combination of both.

7 3. Alternative program means a nondisciplinary monitoring or
8 practice remediation process approved by a physical therapy licensing
9 board. This includes, but is not limited to, substance abuse issues.

10 4. Commission means the Physical Therapy Compact Commission which is
11 the national administrative body whose membership consists of all states
12 that have enacted the Compact.

13 5. Compact privilege means the authorization granted by a remote
14 state to allow a licensee from another member state to practice as a
15 physical therapist or work as a physical therapist assistant in the
16 remote state under its laws and rules. The practice of physical therapy
17 occurs in the member state where the patient or client is located at the
18 time of the patient or client encounter.

19 6. Continuing competence means a requirement, as a condition of
20 license renewal, to provide evidence of participation in, or completion
21 of, educational and professional activities relevant to practice or area
22 of work.

23 7. Data system means a repository of information about licensees,
24 including examination, licensure, investigative, compact privilege, and
25 adverse action.

26 8. Encumbered license means a license that a physical therapy
27 licensing board has limited in any way.

28 9. Executive board means a group of directors elected or appointed
29 to act on behalf of, and within the powers granted to them by, the
30 Commission.

31 10. Home state means the member state that is the licensee's primary

1 state of residence.

2 11. Investigative information means information, records, and
3 documents received or generated by a physical therapy licensing board
4 pursuant to an investigation.

5 12. Jurisprudence requirement means the assessment of an
6 individual's knowledge of the laws and rules governing the practice of
7 physical therapy in a state.

8 13. Licensee means an individual who currently holds an
9 authorization from the state to practice as a physical therapist or to
10 work as a physical therapist assistant.

11 14. Member state means a state that has enacted the Compact.

12 15. Party state means any member state in which a licensee holds a
13 current license or compact privilege or is applying for a license or
14 compact privilege.

15 16. Physical therapist means an individual who is licensed by a
16 state to practice physical therapy.

17 17. Physical therapist assistant means an individual who is licensed
18 or certified by a state and who assists the physical therapist in
19 selected components of physical therapy.

20 18. Physical therapy, physical therapy practice, and the practice of
21 physical therapy mean the care and services provided by or under the
22 direction and supervision of a licensed physical therapist.

23 19. Physical therapy licensing board means the agency of a state
24 that is responsible for the licensing and regulation of physical
25 therapists and physical therapist assistants.

26 20. Remote state means a member state, other than the home state,
27 where a licensee is exercising or seeking to exercise the compact
28 privilege.

29 21. Rule means a regulation, principle, or directive promulgated by
30 the Commission that has the force of law.

31 22. State means any state, commonwealth, district, or territory of

1 the United States that regulates the practice of physical therapy.

2 ARTICLE III

3 STATE PARTICIPATION IN THE COMPACT

4 a. To participate in the Physical Therapy Licensure Compact, a state
5 must:

6 1. Participate fully in the Commission's data system, including
7 using the Commission's unique identifier as defined in rules;

8 2. Have a mechanism in place for receiving and investigating
9 complaints about licensees;

10 3. Notify the Commission, in compliance with the terms of the
11 Compact and rules, of any adverse action or the availability of
12 investigative information regarding a licensee;

13 4. Fully implement a criminal background check requirement, within a
14 timeframe established by rule, by receiving the results of the Federal
15 Bureau of Investigation record search on criminal background checks and
16 use the results in making licensure decisions in accordance with this
17 Article;

18 5. Comply with the rules of the Commission;

19 6. Utilize a recognized national examination as a requirement for
20 licensure pursuant to the rules of the Commission; and

21 7. Have continuing competence requirements as a condition for
22 license renewal.

23 b. Upon adoption of this statute, the member state shall have the
24 authority to obtain biometric-based information from each physical
25 therapy licensure applicant and submit this information to the Federal
26 Bureau of Investigation for a criminal background check in accordance
27 with 28 U.S.C. 534 and 34 U.S.C. 40316.

28 c. A member state shall grant the compact privilege to a licensee
29 holding a valid unencumbered license in another member state in
30 accordance with the terms of the Compact and rules.

31 d. Member states may charge a fee for granting a compact privilege.

1 ARTICLE IV

2 COMPACT PRIVILEGE

3 a. To exercise the compact privilege under the terms and provisions
4 of the Physical Therapy Licensure Compact, the licensee shall:

5 1. Hold a license in the home state;

6 2. Have no encumbrance on any state license;

7 3. Be eligible for a compact privilege in any member state in
8 accordance with paragraphs d, g, and h of this Article;

9 4. Have not had any adverse action against any license or compact
10 privilege within the previous two years;

11 5. Notify the Commission that the licensee is seeking the compact
12 privilege within a remote state;

13 6. Pay any applicable fees, including any state fee, for the compact
14 privilege;

15 7. Meet any jurisprudence requirements established by the remote
16 state in which the licensee is seeking a compact privilege; and

17 8. Report to the Commission adverse action taken by any nonmember
18 state within thirty days from the date the adverse action is taken.

19 b. The compact privilege is valid until the expiration date of the
20 home license. The licensee must comply with the requirements of paragraph
21 a of this Article to maintain the compact privilege in the remote state.

22 c. A licensee providing physical therapy in a remote state under the
23 compact privilege shall function within the laws and regulations of the
24 remote state.

25 d. A licensee providing physical therapy in a remote state is
26 subject to that state's regulatory authority. A remote state may, in
27 accordance with due process and that state's laws, remove a licensee's
28 compact privilege in the remote state for a specific period of time,
29 impose fines, or take any other necessary actions to protect the health
30 and safety of its citizens. The licensee is not eligible for a compact
31 privilege in any state until the specific time for removal has passed and

1 all fines are paid.

2 e. If a home state license is encumbered, the licensee shall lose
3 the compact privilege in any remote state until the following occur:

4 1. The home state license is no longer encumbered; and

5 2. Two years have elapsed from the date of the adverse action.

6 f. Once an encumbered license in the home state is restored to good
7 standing, the licensee must meet the requirements of paragraph a of this
8 Article to obtain a compact privilege in any remote state.

9 g. If a licensee's compact privilege in any remote state is removed,
10 the individual shall lose the compact privilege in any remote state until
11 the following occur:

12 1. The specific period of time for which the compact privilege was
13 removed has ended;

14 2. All fines have been paid; and

15 3. Two years have elapsed from the date of the adverse action.

16 h. Once the requirements of paragraph g of this Article have been
17 met, the licensee must meet the requirements in paragraph a of this
18 Article to obtain a compact privilege in a remote state.

19 ARTICLE V

20 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

21 A licensee who is active duty military or is the spouse of an
22 individual who is active duty military may designate one of the following
23 as the home state:

24 a. Home of record;

25 b. Permanent change of station (PCS); or

26 c. State of current residence if it is different than the PCS state
27 or home of record.

28 ARTICLE VI

29 ADVERSE ACTIONS

30 a. A home state shall have exclusive power to impose adverse action
31 against a license issued by the home state.

1 b. A home state may take adverse action based on the investigative
2 information of a remote state, so long as the home state follows its own
3 procedures for imposing adverse action.

4 c. Nothing in the Physical Therapy Licensure Compact shall override
5 a member state's decision that participation in an alternative program
6 may be used in lieu of adverse action and that such participation shall
7 remain nonpublic if required by the member state's laws. Member states
8 must require licensees who enter any alternative programs in lieu of
9 discipline to agree not to practice in any other member state during the
10 term of the alternative program without prior authorization from such
11 other member state.

12 d. Any member state may investigate actual or alleged violations of
13 the statutes and rules authorizing the practice of physical therapy in
14 any other member state in which a physical therapist or physical
15 therapist assistant holds a license or compact privilege.

16 e. A remote state shall have the authority to:

17 1. Take adverse actions as set forth in paragraph d of Article IV
18 against a licensee's compact privilege in the state;

19 2. Issue subpoenas for both hearings and investigations that require
20 the attendance and testimony of witnesses, and the production of
21 evidence. Subpoenas issued by a physical therapy licensing board in a
22 party state for the attendance and testimony of witnesses, or the
23 production of evidence from another party state, shall be enforced in the
24 latter state by any court of competent jurisdiction, according to the
25 practice and procedure of that court applicable to subpoenas issued in
26 proceedings pending before it. The issuing authority shall pay any
27 witness fees, travel expenses, mileage, and other fees required by the
28 service statutes of the state where the witnesses or evidence are
29 located; and

30 3. If otherwise permitted by state law, recover from the licensee
31 the costs of investigations and disposition of cases resulting from any

1 adverse action taken against that licensee.

2 f. Joint Investigations

3 1. In addition to the authority granted to a member state by its
4 respective physical therapy practice act or other applicable state law, a
5 member state may participate with other member states in joint
6 investigations of licensees.

7 2. Member states shall share any investigative, litigation, or
8 compliance materials in furtherance of any joint or individual
9 investigation initiated under the Compact.

10 ARTICLE VII

11 ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

12 a. The member states hereby create and establish a joint public
13 agency known as the Physical Therapy Compact Commission:

14 1. The Commission is an instrumentality of the Compact states.

15 2. Venue is proper and judicial proceedings by or against the
16 Commission shall be brought solely and exclusively in a court of
17 competent jurisdiction where the principal office of the Commission is
18 located. The Commission may waive venue and jurisdictional defenses to
19 the extent it adopts or consents to participate in alternative dispute
20 resolution proceedings.

21 3. Nothing in the Physical Therapy Licensure Compact shall be
22 construed to be a waiver of sovereign immunity.

23 b. Membership, Voting, and Meetings

24 1. Each member state shall have and be limited to one delegate
25 selected by that member state's physical therapy licensing board.

26 2. The delegate shall be a current member of the physical therapy
27 licensing board, who is a physical therapist, a physical therapist
28 assistant, a public member, or the administrator of the physical therapy
29 licensing board.

30 3. Any delegate may be removed or suspended from office as provided
31 by the law of the state from which the delegate is appointed.

1 4. The member state physical therapy licensing board shall fill any
2 vacancy occurring in the Commission.

3 5. Each delegate shall be entitled to one vote with regard to the
4 promulgation of rules and creation of bylaws and shall otherwise have an
5 opportunity to participate in the business and affairs of the Commission.

6 6. A delegate shall vote in person or by such other means as
7 provided in the bylaws. The bylaws may provide for delegates'
8 participation in meetings by telephone or other means of communication.

9 7. The Commission shall meet at least once during each calendar
10 year. Additional meetings shall be held as set forth in the bylaws.

11 c. The Commission shall have the following powers and duties:

12 1. Establish the fiscal year of the Commission;

13 2. Establish bylaws;

14 3. Maintain its financial records in accordance with the bylaws;

15 4. Meet and take such actions as are consistent with the Compact and
16 the bylaws;

17 5. Promulgate uniform rules to facilitate and coordinate
18 implementation and administration of the Compact. The rules shall have
19 the force and effect of law and shall be binding in all member states;

20 6. Bring and prosecute legal proceedings or actions in the name of
21 the Commission, provided that the standing of any state physical therapy
22 licensing board to sue or be sued under applicable law shall not be
23 affected;

24 7. Purchase and maintain insurance and bonds;

25 8. Borrow, accept, or contract for services of personnel, including,
26 but not limited to, employees of a member state;

27 9. Hire employees, elect or appoint officers, fix compensation,
28 define duties, grant such individuals appropriate authority to carry out
29 the purposes of the Compact, and to establish the Commission's personnel
30 policies and programs relating to conflicts of interest, qualifications
31 of personnel, and other related personnel matters;

1 10. Accept any and all appropriate donations and grants of money,
2 equipment, supplies, materials, and services, and to receive, utilize,
3 and dispose of the same; provided that at all times the Commission shall
4 avoid any appearance of impropriety or conflict of interest;

5 11. Lease, purchase, accept appropriate gifts or donations of, or
6 otherwise to own, hold, improve, or use, any property, real, personal, or
7 mixed; provided that at all times the Commission shall avoid any
8 appearance of impropriety;

9 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or
10 otherwise dispose of any property real, personal, or mixed;

11 13. Establish a budget and make expenditures;

12 14. Borrow money;

13 15. Appoint committees, including standing committees composed of
14 members, state regulators, state legislators or their representatives,
15 and consumer representatives, and such other interested persons as may be
16 designated in the Compact and the bylaws;

17 16. Provide and receive information from, and cooperate with, law
18 enforcement agencies;

19 17. Establish and elect an executive board; and

20 18. Perform such other functions as may be necessary or appropriate
21 to achieve the purposes of the Compact consistent with the state
22 regulation of physical therapy licensure and practice.

23 d. The Executive Board

24 The executive board shall have the power to act on behalf of the
25 Commission according to the terms of the Compact.

26 1. The executive board shall be composed of nine members:

27 A. Seven voting members who are elected by the Commission from the
28 current membership of the Commission;

29 B. One ex officio, nonvoting member from the recognized national
30 physical therapy professional association; and

31 C. One ex officio, nonvoting member from the recognized membership

1 organization of the physical therapy licensing boards.

2 2. The ex officio members will be selected by their respective
3 organizations.

4 3. The Commission may remove any member of the executive board as
5 provided in bylaws.

6 4. The executive board shall meet at least annually.

7 5. The executive board shall have the following duties and
8 responsibilities:

9 A. Recommend to the entire Commission changes to the rules or
10 bylaws, changes to the Compact, fees paid by Compact member states such
11 as annual dues, and any commission Compact fee charged to licensees for
12 the compact privilege;

13 B. Ensure Compact administration services are appropriately
14 provided, contractual or otherwise;

15 C. Prepare and recommend the budget;

16 D. Maintain financial records on behalf of the Commission;

17 E. Monitor Compact compliance of member states and provide
18 compliance reports to the Commission;

19 F. Establish additional committees as necessary; and

20 G. Other duties as provided in rules or bylaws.

21 e. Meetings of the Commission

22 1. All meetings shall be open to the public, and public notice of
23 meetings shall be given in the same manner as required under the
24 rulemaking provisions in Article IX.

25 2. The Commission or the executive board or other committees of the
26 Commission may convene in a closed, nonpublic meeting if the Commission
27 or executive board or other committees of the Commission must discuss:

28 A. Noncompliance of a member state with its obligations under the
29 Compact;

30 B. The employment, compensation, discipline, or other matters,
31 practices or procedures related to specific employees or other matters

1 related to the Commission's internal personnel practices and procedures;

2 C. Current, threatened, or reasonably anticipated litigation;

3 D. Negotiation of contracts for the purchase, lease, or sale of
4 goods, services, or real estate;

5 E. Accusing any person of a crime or formally censuring any person;

6 F. Disclosure of trade secrets or commercial or financial
7 information that is privileged or confidential;

8 G. Disclosure of information of a personal nature where disclosure
9 would constitute a clearly unwarranted invasion of personal privacy;

10 H. Disclosure of investigative records compiled for law enforcement
11 purposes;

12 I. Disclosure of information related to any investigative reports
13 prepared by or on behalf of or for use of the Commission or other
14 committee charged with responsibility of investigation or determination
15 of compliance issues pursuant to the Compact; or

16 J. Matters specifically exempted from disclosure by federal or
17 member state statute.

18 3. If a meeting, or portion of a meeting, is closed pursuant to this
19 Article, the Commission's legal counsel or designee shall certify that
20 the meeting may be closed and shall reference each relevant exempting
21 provision.

22 4. The Commission shall keep minutes that fully and clearly describe
23 all matters discussed in a meeting and shall provide a full and accurate
24 summary of actions taken, and the reasons therefore, including a
25 description of the views expressed. All documents considered in
26 connection with an action shall be identified in such minutes. All
27 minutes and documents of a closed meeting shall remain under seal,
28 subject to release by a majority vote of the Commission or order of a
29 court of competent jurisdiction.

30 f. Financing of the Commission

31 1. The Commission shall pay, or provide for the payment of, the

1 reasonable expenses of its establishment, organization, and ongoing
2 activities.

3 2. The Commission may accept any and all appropriate revenue
4 sources, donations, and grants of money, equipment, supplies, materials,
5 and services.

6 3. The Commission may levy on and collect an annual assessment from
7 each member state or impose fees on other parties to cover the cost of
8 the operations and activities of the Commission and its staff, which must
9 be in a total amount sufficient to cover its annual budget as approved
10 each year for which revenue is not provided by other sources. The
11 aggregate annual assessment amount shall be allocated based upon a
12 formula to be determined by the Commission, which shall promulgate a rule
13 binding upon all member states.

14 4. The Commission shall not incur obligations of any kind prior to
15 securing the funds adequate to meet the same; nor shall the Commission
16 pledge the credit of any of the member states, except by and with the
17 authority of the member state.

18 5. The Commission shall keep accurate accounts of all receipts and
19 disbursements. The receipts and disbursements of the Commission shall be
20 subject to the audit and accounting procedures established under its
21 bylaws. However, all receipts and disbursements of funds handled by the
22 Commission shall be audited yearly by a certified or licensed public
23 accountant, and the report of the audit shall be included in and become
24 part of the annual report of the Commission.

25 g. Qualified Immunity, Defense, and Indemnification

26 1. The members, officers, executive director, employees, and
27 representatives of the Commission shall have no greater liability, either
28 personally or in their official capacity, for any claim for damage to or
29 loss of property or personal injury or other civil liability caused by or
30 arising out of any actual or alleged act, error, or omission that
31 occurred, or that the person against whom the claim is made had a

1 reasonable basis for believing occurred, within the scope of Commission
2 employment, duties, or responsibilities, than a state employee would have
3 under the same or similar circumstances; provided that nothing in this
4 paragraph shall be construed to protect any such person from suit or
5 liability for any damage, loss, injury, or liability caused by the
6 intentional or willful or wanton misconduct of that person.

7 2. The Commission shall defend any member, officer, executive
8 director, employee, or representative of the Commission in any civil
9 action seeking to impose liability arising out of any actual or alleged
10 act, error, or omission that occurred within the scope of Commission
11 employment, duties, or responsibilities, or that the person against whom
12 the claim is made had a reasonable basis for believing occurred within
13 the scope of Commission employment, duties, or responsibilities; provided
14 that nothing in this paragraph shall be construed to prohibit that person
15 from retaining his or her own counsel; and provided further, that the
16 actual or alleged act, error, or omission did not result from that
17 person's intentional or willful or wanton misconduct.

18 3. The Commission shall indemnify and hold harmless any member,
19 officer, executive director, employee, or representative of the
20 Commission for the amount of any settlement or judgment obtained against
21 that person arising out of any actual or alleged act, error, or omission
22 that occurred within the scope of Commission employment, duties, or
23 responsibilities, or that such person had a reasonable basis for
24 believing occurred within the scope of Commission employment, duties, or
25 responsibilities, provided that the actual or alleged act, error, or
26 omission did not result from the intentional or willful or wanton
27 misconduct of that person.

28 ARTICLE VIII

29 DATA SYSTEM

30 a. The Commission shall provide for the development, maintenance,
31 and utilization of a coordinated data base and reporting system

1 containing licensure, adverse action, and investigative information on
2 all licensed individuals in member states.

3 b. Notwithstanding any other provision of state law to the contrary,
4 a member state shall submit a uniform data set to the data system on all
5 individuals to whom the Physical Therapy Licensure Compact is applicable
6 as required by the rules of the Commission, including:

7 1. Identifying information;

8 2. Licensure data;

9 3. Adverse actions against a license or compact privilege;

10 4. Nonconfidential information related to alternative program
11 participation;

12 5. Any denial of application for licensure, and the reason for such
13 denial; and

14 6. Other information that may facilitate the administration of the
15 Compact, as determined by the rules of the Commission.

16 c. Investigative information pertaining to a licensee in any member
17 state will only be available to other party states.

18 d. The Commission shall promptly notify all member states of any
19 adverse action taken against a licensee or an individual applying for a
20 license. Adverse action information pertaining to a licensee in any
21 member state will be available to any other member state.

22 e. Member states contributing information to the data system may
23 designate information that may not be shared with the public without the
24 express permission of the contributing state.

25 f. Any information submitted to the data system that is subsequently
26 required to be expunged by the laws of the member state contributing the
27 information shall be removed from the data system.

28 ARTICLE IX

29 RULEMAKING

30 a. The Commission shall exercise its rulemaking powers pursuant to
31 the criteria set forth in this Article and the rules adopted thereunder.

1 Rules and amendments shall become binding as of the date specified in
2 each rule or amendment.

3 b. If a majority of the legislatures of the member states rejects a
4 rule, by enactment of a statute or resolution in the same manner used to
5 adopt the Physical Therapy Licensure Compact within four years of the
6 date of adoption of the rule, then such rule shall have no further force
7 and effect in any member state.

8 c. Rules or amendments to the rules shall be adopted at a regular or
9 special meeting of the Commission.

10 d. Prior to promulgation and adoption of a final rule or rules by
11 the Commission, and at least thirty days in advance of the meeting at
12 which the rule will be considered and voted upon, the Commission shall
13 file a notice of proposed rulemaking:

14 1. On the web site of the Commission or other publicly accessible
15 platform; and

16 2. On the web site of each member state physical therapy licensing
17 board or other publicly accessible platform or the publication in which
18 each state would otherwise publish proposed rules.

19 e. The notice of proposed rulemaking shall include:

20 1. The proposed time, date, and location of the meeting in which the
21 rule will be considered and voted upon;

22 2. The text of the proposed rule or amendment and the reason for the
23 proposed rule;

24 3. A request for comments on the proposed rule from any interested
25 person; and

26 4. The manner in which interested persons may submit notice to the
27 Commission of their intention to attend the public hearing and any
28 written comments.

29 f. Prior to adoption of a proposed rule, the Commission shall allow
30 persons to submit written data, facts, opinions, and arguments, which
31 shall be made available to the public.

1 g. The Commission shall grant an opportunity for a public hearing
2 before it adopts a rule or amendment if a hearing is requested by:

3 1. At least twenty-five persons;

4 2. A state or federal governmental subdivision or agency; or

5 3. An association having at least twenty-five members.

6 h. If a hearing is held on the proposed rule or amendment, the
7 Commission shall publish the place, time, and date of the scheduled
8 public hearing. If the hearing is held via electronic means, the
9 Commission shall publish the mechanism for access to the electronic
10 hearing.

11 1. All persons wishing to be heard at the hearing shall notify the
12 executive director of the Commission or other designated member in
13 writing of their desire to appear and testify at the hearing not less
14 than five business days before the scheduled date of the hearing.

15 2. Hearings shall be conducted in a manner providing each person who
16 wishes to comment a fair and reasonable opportunity to comment orally or
17 in writing.

18 3. All hearings will be recorded. A copy of the recording will be
19 made available on request.

20 4. Nothing in this section shall be construed as requiring a
21 separate hearing on each rule. Rules may be grouped for the convenience
22 of the Commission at hearings required by this Article.

23 i. Following the scheduled hearing date, or by the close of business
24 on the scheduled hearing date if the hearing was not held, the Commission
25 shall consider all written and oral comments received.

26 j. If no written notice of intent to attend the public hearing by
27 interested parties is received, the Commission may proceed with
28 promulgation of the proposed rule without a public hearing.

29 k. The Commission shall, by majority vote of all members, take final
30 action on the proposed rule and shall determine the effective date of the
31 rule, if any, based on the rulemaking record and the full text of the

1 rule.

2 1. Upon determination that an emergency exists, the Commission may
3 consider and adopt an emergency rule without prior notice, opportunity
4 for comment, or hearing, provided that the usual rulemaking procedures
5 provided in the Compact and in this section shall be retroactively
6 applied to the rule as soon as reasonably possible, in no event later
7 than ninety days after the effective date of the rule. For the purposes
8 of this paragraph, an emergency rule is one that must be adopted
9 immediately in order to:

- 10 1. Meet an imminent threat to public health, safety, or welfare;
11 2. Prevent a loss of Commission or member state funds;
12 3. Meet a deadline for the promulgation of an administrative rule
13 that is established by federal law or rule; or
14 4. Protect public health and safety.

15 m. The Commission or an authorized committee of the Commission may
16 direct revisions to a previously adopted rule or amendment for purposes
17 of correcting typographical errors, errors in format, errors in
18 consistency, or grammatical errors. Public notice of any revisions shall
19 be posted on the web site of the Commission. The revision shall be
20 subject to challenge by any person for a period of thirty days after
21 posting. The revision may be challenged only on grounds that the revision
22 results in a material change to a rule. A challenge shall be made in
23 writing, and delivered to the chair of the Commission prior to the end of
24 the notice period. If no challenge is made, the revision will take effect
25 without further action. If the revision is challenged, the revision may
26 not take effect without the approval of the Commission.

27 ARTICLE X

28 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

29 a. Oversight

30 1. The executive, legislative, and judicial branches of state
31 government in each member state shall enforce the Physical Therapy

1 Licensure Compact and take all actions necessary and appropriate to
2 effectuate the Compact's purposes and intent. The provisions of the
3 Compact and the rules promulgated under the Compact shall have standing
4 as statutory law.

5 2. All courts shall take judicial notice of the Compact and the
6 rules in any judicial or administrative proceeding in a member state
7 pertaining to the subject matter of the Compact which may affect the
8 powers, responsibilities, or actions of the Commission.

9 3. The Commission shall be entitled to receive service of process in
10 any such proceeding and shall have standing to intervene in such a
11 proceeding for all purposes. Failure to provide service of process to the
12 Commission shall render a judgment or order void as to the Commission,
13 the Compact, or promulgated rules.

14 b. Default, Technical Assistance, and Termination

15 1. If the Commission determines that a member state has defaulted in
16 the performance of its obligations or responsibilities under the Compact
17 or the promulgated rules, the Commission shall:

18 A. Provide written notice to the defaulting state and other member
19 states of the nature of the default, the proposed means of curing the
20 default, or any other action to be taken by the Commission; and

21 B. Provide remedial training and specific technical assistance
22 regarding the default.

23 2. If a state in default fails to cure the default, the defaulting
24 state may be terminated from the Compact upon an affirmative vote of a
25 majority of the member states, and all rights, privileges, and benefits
26 conferred by the Compact may be terminated on the effective date of
27 termination. A cure of the default does not relieve the offending state
28 of obligations or liabilities incurred during the period of default.

29 3. Termination of membership in the Compact shall be imposed only
30 after all other means of securing compliance have been exhausted. Notice
31 of intent to suspend or terminate shall be given by the Commission to the

1 governor, the majority and minority leaders of the defaulting state's
2 legislature or the Speaker if no such leaders exist, and each of the
3 member states.

4 4. A state that has been terminated is responsible for all
5 assessments, obligations, and liabilities incurred through the effective
6 date of termination, including obligations that extend beyond the
7 effective date of termination.

8 5. The Commission shall not bear any costs related to a state that
9 is found to be in default or that has been terminated from the Compact,
10 unless agreed upon in writing between the Commission and the defaulting
11 state.

12 6. The defaulting state may appeal the action of the Commission by
13 petitioning the United States District Court for the District of Columbia
14 or the federal district where the Commission has its principal offices.
15 The prevailing member shall be awarded all costs of such litigation,
16 including reasonable attorney's fees.

17 c. Dispute Resolution

18 1. Upon request by a member state, the Commission shall attempt to
19 resolve disputes related to the Compact that arise among member states
20 and between member and nonmember states.

21 2. The Commission shall promulgate a rule providing for both
22 mediation and binding dispute resolution for disputes as appropriate.

23 d. Enforcement

24 1. The Commission, in the reasonable exercise of its discretion,
25 shall enforce the provisions and rules of the Compact.

26 2. By majority vote, the Commission may initiate legal action in the
27 United States District Court for the District of Columbia or the federal
28 district where the Commission has its principal offices against a member
29 state in default to enforce compliance with the Compact and its
30 promulgated rules and bylaws. The relief sought may include both
31 injunctive relief and damages. In the event judicial enforcement is

1 necessary, the prevailing member shall be awarded all costs of such
2 litigation, including reasonable attorney's fees.

3 3. The remedies in this Article shall not be the exclusive remedies
4 of the Commission. The Commission may pursue any other remedies available
5 under federal or state law.

6 ARTICLE XI

7 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL
8 THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

9 a. The Physical Therapy Licensure Compact shall come into effect on
10 the date on which the Compact is enacted into law in the tenth member
11 state. The provisions, which become effective at that time, shall be
12 limited to the powers granted to the Commission relating to assembly and
13 the promulgation of rules. Thereafter, the Commission shall meet and
14 exercise rulemaking powers necessary to the implementation and
15 administration of the Compact.

16 b. Any state that joins the Compact subsequent to the Commission's
17 initial adoption of the rules shall be subject to the rules as they exist
18 on the date on which the Compact becomes law in that state. Any rule that
19 has been previously adopted by the Commission shall have the full force
20 and effect of law on the day the Compact becomes law in that state.

21 c. Any member state may withdraw from the Compact by enacting a
22 statute repealing the same.

23 1. A member state's withdrawal shall not take effect until six
24 months after enactment of the repealing statute.

25 2. Withdrawal shall not affect the continuing requirement of the
26 withdrawing state's physical therapy licensing board to comply with the
27 investigative and adverse action reporting requirements of the Compact
28 prior to the effective date of withdrawal.

29 d. Nothing contained in the Compact shall be construed to invalidate
30 or prevent any physical therapy licensure agreement or other cooperative
31 arrangement between a member state and a nonmember state that does not

1 conflict with the Compact.

2 e. The Compact may be amended by the member states. No amendment to
3 the Compact shall become effective and binding upon any member state
4 until it is enacted into the laws of all member states.

5 ARTICLE XII

6 CONSTRUCTION AND SEVERABILITY

7 The Physical Therapy Licensure Compact shall be liberally construed
8 so as to effectuate the purposes of the Compact. The provisions of the
9 Compact shall be severable and if any phrase, clause, sentence, or
10 provision of the Compact is declared to be contrary to the constitution
11 of any party state or of the United States or the applicability thereof
12 to any government, agency, person, or circumstance is held invalid, the
13 validity of the remainder of the Compact and the applicability thereof to
14 any government, agency, person, or circumstance shall not be affected
15 thereby. If the Compact shall be held contrary to the constitution of any
16 party state, the Compact shall remain in full force and effect as to the
17 remaining party states and in full force and effect as to the party state
18 affected as to all severable matters.

19 Sec. 102. Sections 37, 38, 39, 40, 41, 42, 43, 44, 58, 59, 60, 61,
20 62, 63, 64, 65, 79, 84, 85, 86, 87, 88, 89, 90, 91, and 105 of this act
21 become operative on January 1, 2019. The other sections of this act
22 become operative on their effective date.

23 Sec. 103. If any section in this act or any part of any section is
24 declared invalid or unconstitutional, the declaration shall not affect
25 the validity or constitutionality of the remaining portions.

26 Sec. 104. Original sections 38-131, 38-145, 38-1001, 38-1004,
27 38-1005, 38-1017, 38-1018, 38-1028, 38-1036, 38-1038, 38-1043, 38-1058,
28 38-1061, 38-1062, 38-1063, 38-1065, 38-1069, 38-1073, 38-1074, 38-1075,
29 38-1086, 38-1097, 38-1099, 38-10,100, 38-10,102, 38-10,103, 38-10,104,
30 38-10,105, 38-10,107, 38-10,108, 38-10,112, 38-10,120, 38-10,128,
31 38-10,129, 38-10,131, 38-10,133, 38-10,135, 38-10,142, 38-10,147,

1 38-10,150, 38-10,152, 38-10,153, 38-10,154, 38-10,156, 38-10,171,
2 38-2833, 38-2847, 38-2891, 38-28,106, 38-3208, 71-203, 71-204, 71-208.08,
3 and 71-425, Reissue Revised Statutes of Nebraska, sections 71-208,
4 71-403, 71-2448, and 71-2483, Revised Statutes Cumulative Supplement,
5 2016, and sections 38-1066, 38-1070, 38-10,132, 38-2801, 38-2802,
6 38-2870, 38-2892, and 71-401, Revised Statutes Supplement, 2017, are
7 repealed.

8 Sec. 105. Original section 71-224, Reissue Revised Statutes of
9 Nebraska, and section 71-202.01, Revised Statutes Cumulative Supplement,
10 2016, are repealed.

11 Sec. 106. The following sections are outright repealed: Sections
12 38-1013, 38-1014, 38-1022, 38-1029, 38-1030, 38-1071, 38-1072, 38-1091,
13 38-1092, 38-1093, 38-1094, 38-1095, 38-1096, 38-10,106, and 38-10,155,
14 Reissue Revised Statutes of Nebraska.