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LEGISLATURE OF NEBRASKA

ONE HUNDRED FIFTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 466

Introduced by Brasch, 16.

Read first time January 17, 2017

Committee: Health and Human Services

A BILL FOR AN ACT relating to nurse-midwives; to amend sections 28-401, 38-101, 38-205, 38-206, 38-208, 38-209, 38-601, 38-602, 38-603, 38-604, 38-606, 38-607, 38-609, 38-610, 38-611, 38-612, 38-613, 38-615, 38-616, 38-617, 38-618, 38-2838, 38-2850, and 71-1405, Reissue Revised Statutes of Nebraska, and sections 68-911, 71-503.02, 71-2048.01, 71-2445, and 71-2473, Revised Statutes Cumulative Supplement, 2016; to eliminate requirements for integrated practice agreements; to provide, change, and eliminate definitions; to provide for transition-to-practice agreements; to change and eliminate provisions relating to credentialing and regulation; to harmonize provisions; to repeal the original sections; and to outright repeal section 38-614, Reissue Revised Statutes of Nebraska.

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

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Section 1. Section 28-401, Reissue Revised Statutes of Nebraska, is amended to read:

28-401 As used in the Uniform Controlled Substances Act, unless the context otherwise requires:

(1) Administer means to directly apply a controlled substance by injection, inhalation, ingestion, or any other means to the body of a patient or research subject;

(2) Agent means an authorized person who acts on behalf of or at the direction of another person but does not include a common or contract carrier, public warehouse keeper, or employee of a carrier or warehouse keeper;

(3) Administration means the Drug Enforcement Administration of the United States Department of Justice;

(4) Controlled substance means a drug, biological, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance does not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2014, and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

(6) Department means the Department of Health and Human Services;

(7) Division of Drug Control means the personnel of the Nebraska State Patrol who are assigned to enforce the Uniform Controlled

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Substances Act;

(8) Dispense means to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery;

(9) Distribute means to deliver other than by administering or dispensing a controlled substance;

(10) Prescribe means to issue a medical order;

(11) Drug means (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them, (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals, and (c) substances intended for use as a component of any article specified in subdivision (a) or (b) of this subdivision, but does not include devices or their components, parts, or accessories;

(12) Deliver or delivery means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(13) Marijuana means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, but does not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, the sterilized seed of such plant which is incapable of germination, or cannabidiol obtained pursuant to sections 28-463 to 28-468. When the weight of marijuana is referred to in the Uniform Controlled Substances Act, it means its weight at or about

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the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time. When industrial hemp as defined in section 2-5701 is in the possession of a person as authorized under section 2-5701, it is not considered marijuana for purposes of the Uniform Controlled Substances Act;

(14) Manufacture means the production, preparation, propagation, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. Manufacture does not include the preparation or compounding of a controlled substance by an individual for his or her own use, except for the preparation or compounding of components or ingredients used for or intended to be used for the manufacture of methamphetamine, or the preparation, compounding, conversion, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his or her prescribing, administering, or dispensing of a controlled substance in the course of his or her professional practice; or (b) by a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

(15) Narcotic drug means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and opiates; (b) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates; or (c) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (a) and (b) of this subdivision,

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except that the words narcotic drug as used in the Uniform Controlled Substances Act does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

(16) Opiate means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. Opiate does not include the dextrorotatory isomer of 3-methoxy-n methylmorphinan and its salts. Opiate includes its racemic and levorotatory forms;

(17) Opium poppy means the plant of the species Papaver somniferum L., except the seeds thereof;

(18) Poppy straw means all parts, except the seeds, of the opium poppy after mowing;

(19) Person means any corporation, association, partnership, limited liability company, or one or more persons;

(20) Practitioner means a physician, a physician assistant, a dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a certified nurse-midwife ~~nurse midwife~~, a certified registered nurse anesthetist, a nurse practitioner, a scientific investigator, a pharmacy, a hospital, or any other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of practice or research in this state, including an emergency medical service as defined in section 38-1207;

(21) Production includes the manufacture, planting, cultivation, or harvesting of a controlled substance;

(22) Immediate precursor means a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary

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to prevent, curtail, or limit such manufacture;

(23) State means the State of Nebraska;

(24) Ultimate user means a person who lawfully possesses a controlled substance for his or her own use, for the use of a member of his or her household, or for administration to an animal owned by him or her or by a member of his or her household;

(25) Hospital has the same meaning as in section 71-419;

(26) Cooperating individual means any person, other than a commissioned law enforcement officer, who acts on behalf of, at the request of, or as agent for a law enforcement agency for the purpose of gathering or obtaining evidence of offenses punishable under the Uniform Controlled Substances Act;

(27) Hashish or concentrated cannabis means (a) the separated resin, whether crude or purified, obtained from a plant of the genus cannabis or (b) any material, preparation, mixture, compound, or other substance which contains ten percent or more by weight of tetrahydrocannabinols. When resins extracted from industrial hemp as defined in section 2-5701 are in the possession of a person as authorized under section 2-5701, they are not considered hashish or concentrated cannabis for purposes of the Uniform Controlled Substances Act;

(28) Exceptionally hazardous drug means (a) a narcotic drug, (b) thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h) methamphetamine;

(29) Imitation controlled substance means a substance which is not a controlled substance or controlled substance analogue but which, by way of express or implied representations and consideration of other relevant factors including those specified in section 28-445, would lead a reasonable person to believe the substance is a controlled substance or controlled substance analogue. A placebo or registered investigational drug manufactured, distributed, possessed, or delivered in the ordinary

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course of practice or research by a health care professional shall not be deemed to be an imitation controlled substance;

(30)(a) Controlled substance analogue means a substance (i) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (ii) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of the Uniform Controlled Substances Act; and

(b) Controlled substance analogue does not include (i) a controlled substance, (ii) any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2014, (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2014, to the extent conduct with respect to such substance is pursuant to such exemption;

(31) Anabolic steroid means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids), that promotes muscle growth and includes any controlled substance in Schedule III(d) of section 28-405. Anabolic steroid does not include any anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and has been approved by the Secretary of Health and

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Human Services for such administration, but if any person prescribes, dispenses, or distributes such a steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision;

(32) Chart order means an order for a controlled substance issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412. Chart order does not include a prescription;

(33) Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(34) Prescription means an order for a controlled substance issued by a practitioner. Prescription does not include a chart order;

(35) Registrant means any person who has a controlled substances registration issued by the state or the administration;

(36) Reverse distributor means a person whose primary function is to act as an agent for a pharmacy, wholesaler, manufacturer, or other entity by receiving, inventorying, and managing the disposition of outdated, expired, or otherwise nonsaleable controlled substances;

(37) Signature means the name, word, or mark of a person written in his or her own hand with the intent to authenticate a writing or other form of communication or a digital signature which complies with section 86-611 or an electronic signature;

(38) Facsimile means a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and reconstructs the signals to create an exact duplicate of the original document at the receiving end;

(39) Electronic signature has the definition found in section 86-621;

(40) Electronic transmission means transmission of information in electronic form. Electronic transmission includes computer-to-computer

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transmission or computer-to-facsimile transmission;

(41) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

(42) Compounding has the same meaning as in section 38-2811;

(43) Cannabinoid receptor agonist shall mean any chemical compound or substance that, according to scientific or medical research, study, testing, or analysis, demonstrates the presence of binding activity at one or more of the CB1 or CB2 cell membrane receptors located within the human body; and

(44) Lookalike substance means a product or substance, not specifically designated as a controlled substance in section 28-405, that is either portrayed in such a manner by a person to lead another person to reasonably believe that it produces effects on the human body that replicate, mimic, or are intended to simulate the effects produced by a controlled substance or that possesses one or more of the following indicia or characteristics:

(a) The packaging or labeling of the product or substance suggests that the user will achieve euphoria, hallucination, mood enhancement, stimulation, or another effect on the human body that replicates or mimics those produced by a controlled substance;

(b) The name or packaging of the product or substance uses images or labels suggesting that it is a controlled substance or produces effects on the human body that replicate or mimic those produced by a controlled substance;

(c) The product or substance is marketed or advertised for a particular use or purpose and the cost of the product or substance is disproportionately higher than other products or substances marketed or advertised for the same or similar use or purpose;

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(d) The packaging or label on the product or substance contains words or markings that state or suggest that the product or substance is in compliance with state and federal laws regulating controlled substances;

(e) The owner or person in control of the product or substance uses evasive tactics or actions to avoid detection or inspection of the product or substance by law enforcement authorities;

(f) The owner or person in control of the product or substance makes a verbal or written statement suggesting or implying that the product or substance is a synthetic drug or that consumption of the product or substance will replicate or mimic effects on the human body to those effects commonly produced through use or consumption of a controlled substance;

(g) The owner or person in control of the product or substance makes a verbal or written statement to a prospective customer, buyer, or recipient of the product or substance implying that the product or substance may be resold for profit; or

(h) The product or substance contains a chemical or chemical compound that does not have a legitimate relationship to the use or purpose claimed by the seller, distributor, packer, or manufacturer of the product or substance or indicated by the product name, appearing on the product’s packaging or label or depicted in advertisement of the product or substance.

Sec. 2. Section 38-101, Reissue Revised Statutes of Nebraska, is amended to read:

38-101 Sections 38-101 to 38-1,142 and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:

(1) The Advanced Practice Registered Nurse Practice Act;

(2) The Alcohol and Drug Counseling Practice Act;

(3) The Athletic Training Practice Act;

(4) The Audiology and Speech-Language Pathology Practice Act;

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(5) The Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act;

(6) The Certified Registered Nurse Anesthetist Practice Act;

(7) The Chiropractic Practice Act;

(8) The Clinical Nurse Specialist Practice Act;

(9) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;

(10) The Dentistry Practice Act;

(11) The Emergency Medical Services Practice Act;

(12) The Environmental Health Specialists Practice Act;

(13) The Funeral Directing and Embalming Practice Act;

(14) The Genetic Counseling Practice Act;

(15) The Hearing Instrument Specialists Practice Act;

(16) The Licensed Practical Nurse-Certified Practice Act;

(17) The Massage Therapy Practice Act;

(18) The Medical Nutrition Therapy Practice Act;

(19) The Medical Radiography Practice Act;

(20) The Medicine and Surgery Practice Act;

(21) The Mental Health Practice Act;

(22) The Nurse Practice Act;

(23) The Nurse Practitioner Practice Act;

(24) The Nursing Home Administrator Practice Act;

(25) The Occupational Therapy Practice Act;

(26) The Optometry Practice Act;

(27) The Perfusion Practice Act;

(28) The Pharmacy Practice Act;

(29) The Physical Therapy Practice Act;

(30) The Podiatry Practice Act;

(31) The Psychology Practice Act;

(32) The Respiratory Care Practice Act;

(33) The Surgical First Assistant Practice Act;

(34) The Veterinary Medicine and Surgery Practice Act; and

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(35) The Water Well Standards and Contractors' Practice Act.

If there is any conflict between any provision of sections 38-101 to 38-1,142 ~~38-1,139 and 38-1,141~~ and any provision of a practice act, the provision of the practice act shall prevail.

The Revisor of Statutes shall assign the Uniform Credentialing Act, including the practice acts enumerated in subdivisions (1) through (34) ~~(33)~~ of this section, to articles within Chapter 38.

Sec. 3. Section 38-205, Reissue Revised Statutes of Nebraska, is amended to read:

38-205 (1) Until July 1, 2007, the board shall consist of (a) five advanced practice registered nurses representing different advanced practice registered nurse specialties for which a license has been issued, (b) five physicians licensed under the Uniform Licensing Law to practice medicine in Nebraska, at least three of whom shall have a current collaborating relationship with an advanced practice registered nurse, (c) three consumer members, and (d) one licensed pharmacist.

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

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

(b) Three physicians, one of whom shall have a professional

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relationship with a nurse practitioner, one of whom shall have a professional relationship with a certified nurse-midwife ~~nurse midwife~~, and one of whom shall have a professional relationship with a certified registered nurse anesthetist. Of the initial appointments under this subdivision, one shall be for a three-year term, one shall be for a four-year term, and one shall be for a five-year term. All subsequent appointments under this subdivision shall be for five-year terms; and

(c) Two public members. Of the initial appointments under this subdivision, one shall be for a three-year term, and one shall be for a four-year term. All subsequent appointments under this subdivision shall be for five-year terms.

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

Sec. 4. Section 38-206, Reissue Revised Statutes of Nebraska, is amended to read:

38-206 The board shall:

~~(1) Establish standards for integrated practice agreements between collaborating physicians and certified nurse midwives;~~

(1) ~~(2)~~ Monitor the scope of practice by certified nurse-midwives ~~nurse midwives~~, certified registered nurse anesthetists, clinical nurse specialists, and nurse practitioners;

(2) ~~(3)~~ Recommend disciplinary action relating to licenses of advanced practice registered nurses, certified nurse-midwives ~~nurse midwives~~, certified registered nurse anesthetists, clinical nurse specialists, and nurse practitioners;

(3) ~~(4)~~ Engage in other activities not inconsistent with the Advanced Practice Registered Nurse Practice Act, the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, and the Nurse Practitioner Practice Act; and

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(4) ~~(5)~~ Adopt rules and regulations to implement the Advanced Practice Registered Nurse Practice Act, the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, and the Nurse Practitioner Practice Act, for promulgation by the department as provided in section 38-126. Such rules and regulations shall also include: (a) Approved certification organizations and approved certification programs; and (b) professional liability insurance.

Sec. 5. Section 38-208, Reissue Revised Statutes of Nebraska, is amended to read:

38-208 (1) An applicant for initial licensure as an advanced practice registered nurse shall:

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

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

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

(d) Provide evidence as required by rules and regulations; and

(e) Have committed no acts or omissions which are grounds for disciplinary action in another jurisdiction or, if such acts have been

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committed and would be grounds for discipline under the Nurse Practice Act, the board has found after investigation that sufficient restitution has been made.

(2) The department may issue a license under this section to an applicant who holds a license from another jurisdiction if the licensure requirements of such other jurisdiction meet or exceed the requirements for licensure as an advanced practice registered nurse under the Advanced Practice Registered Nurse Practice Act. An applicant under this subsection shall submit documentation as required by rules and regulations.

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

Sec. 6. Section 38-209, Reissue Revised Statutes of Nebraska, is amended to read:

38-209 The license of each person licensed under the Advanced Practice Registered Nurse Practice Act shall be renewed at the same time and in the same manner as renewal of a license for a registered nurse and shall require that the applicant have (1) a license as a registered nurse issued by the state or have the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska, (2) documentation of continuing competency, either by reference, peer review, examination, or one or more of the continuing competency activities listed in section 38-145 and established by the board in rules and regulations, and (3) met any specific requirements for renewal under the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, or the Nurse Practitioner Practice Act, as applicable.

Sec. 7. Section 38-601, Reissue Revised Statutes of Nebraska, is

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amended to read:

38-601 Sections 38-601 to 38-618 and section 15 of this act shall be known and may be cited as the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act.

Sec. 8. Section 38-602, Reissue Revised Statutes of Nebraska, is amended to read:

38-602 The Legislature hereby finds and declares that the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act is necessary to safeguard public life, health, safety, and welfare, to assure the highest degree of professional conduct by practitioners of certified nurse-midwifery ~~nurse midwifery~~, and to insure the availability of high quality midwifery services to persons desiring such services.

Sec. 9. Section 38-603, Reissue Revised Statutes of Nebraska, is amended to read:

38-603 For purposes of the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-604 to 38-610 and section 15 of this act apply.

Sec. 10. Section 38-604, Reissue Revised Statutes of Nebraska, is amended to read:

38-604 Approved certified nurse-midwifery ~~nurse midwifery~~ education program means a certified nurse-midwifery ~~nurse midwifery~~ education program approved by the board. The board may require such program to be accredited by the American College of Nurse-Midwives.

Sec. 11. Section 38-606, Reissue Revised Statutes of Nebraska, is amended to read:

38-606 Certified nurse-midwife ~~nurse midwife~~ means a person certified by a board-approved certifying body and licensed under the Advanced Practice Registered Nurse Practice Act to practice certified nurse-midwifery ~~nurse midwifery~~ in the State of Nebraska. Nothing in the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act is intended to

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restrict the practice of registered nurses.

Sec. 12. Section 38-607, Reissue Revised Statutes of Nebraska, is amended to read:

38-607 Collaboration means a process and relationship in which a certified nurse-midwife ~~nurse midwife~~ works together with other health professionals to deliver health care within the scope of practice of certified nurse-midwifery ~~nurse midwifery~~ as provided in the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act. ~~The collaborative relationship between the physician and the nurse midwife shall be subject to the control and regulation of the board.~~

Sec. 13. Section 38-609, Reissue Revised Statutes of Nebraska, is amended to read:

38-609 Supervising provider means a physician, osteopathic physician, or certified nurse-midwife licensed and practicing in Nebraska and practicing in the same practice specialty, related specialty, or field of practice as the certified nurse-midwife being supervised.

~~Practice agreement means the written agreement authored and signed by the certified nurse midwife and the licensed practitioner with whom he or she is associated which:~~

~~(1) Identifies the settings within which the certified nurse midwife is authorized to practice;~~

~~(2) Names the collaborating licensed practitioner or, if more than one licensed practitioner is a party to such practice agreement, names all of the collaborating licensed practitioners;~~

~~(3) Defines or describes the medical functions to be performed by the certified nurse midwife, which are not inconsistent with the Certified Nurse Midwifery Practice Act, as agreed to by the nurse midwife and the collaborating licensed practitioner; and~~

~~(4) Contains such other information as required by the board.~~

Sec. 14. Section 38-610, Reissue Revised Statutes of Nebraska, is amended to read:

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38-610 Supervision means the ready availability of the supervising provider ~~a collaborating licensed practitioner~~ for consultation and direction of the activities of the certified nurse-midwife being supervised ~~nurse midwife~~ related to health care ~~delegated medical~~ functions within such certified nurse-midwife's defined scope of practice ~~as outlined in the practice agreement~~.

Sec. 15. Transition-to-practice agreement means a collaborative agreement between a certified nurse-midwife and a supervising provider which provides for the delivery of health care through a collaborative practice and which meets the requirements of section 38-613.

Sec. 16. Section 38-611, Reissue Revised Statutes of Nebraska, is amended to read:

38-611 (1) A certified nurse-midwife ~~nurse midwife~~ may, as permitted in the Certified Nurse-Midwifery Practice Act ~~under the provisions of a practice agreement~~, (a) ~~(1)~~ attend cases of normal childbirth, (b) ~~(2)~~ provide prenatal, intrapartum, and postpartum care, (c) ~~(3)~~ provide normal obstetrical and gynecological services for women, and (d) ~~(4)~~ provide care for the newborn immediately following birth. ~~The conditions under which a certified nurse midwife is required to refer cases to a collaborating licensed practitioner shall be specified in the practice agreement.~~

(2) A certified nurse-midwife shall function by establishing collaborative, consultative, and referral networks as appropriate with other health care professionals. Patients who require care beyond the scope of practice of a certified nurse-midwife shall be referred to an appropriate health care provider.

(3) A certified nurse-midwife shall not attend a home delivery.

Sec. 17. Section 38-612, Reissue Revised Statutes of Nebraska, is amended to read:

38-612 The Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act shall not prohibit the performance of the functions of a certified nurse-

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midwife ~~nurse midwife~~ by an unlicensed person if performed:

(1) In an emergency situation;

(2) By a legally qualified person from another state employed by the United States Government and performing official duties in this state; or

(3) By a person enrolled in an approved program for the preparation of certified nurse-midwives ~~nurse midwives~~ as part of such approved program.

Sec. 18. Section 38-613, Reissue Revised Statutes of Nebraska, is amended to read:

38-613 (1) In order to practice as a certified nurse-midwife in this state, an individual who holds or has held a license as a certified nurse-midwife in this state or in another state shall submit to the department a transition-to-practice agreement or evidence of completion of two thousand hours of practice as a certified nurse-midwife which have been completed under a transition-to-practice agreement, under a collaborative agreement, under an integrated practice agreement, through independent practice, or under any combination of such agreements and practice, as allowed in this state or another state ~~The specific medical functions to be performed by a certified nurse midwife within the scope of permitted practice prescribed by section 38-611 shall be described in the practice agreement which shall be reviewed and approved by the board. A copy of the agreement shall be maintained on file with the board as a condition of lawful practice under the Certified Nurse Midwifery Practice Act~~.

(2)(a) A transition-to-practice agreement shall be a formal written agreement that provides that the certified nurse-midwife and the supervising provider practice collaboratively within the framework of their respective scopes of practice.

(b) The certified nurse-midwife and the supervising provider shall each be responsible for his or her individual decisions in managing the health care of patients through consultation, collaboration, and

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referral. The certified nurse-midwife and the supervising provider shall have joint responsibility for the delivery of health care to a patient based upon the scope of practice of the certified nurse-midwife and the supervising provider.

(c) The supervising provider shall be responsible for supervision of the certified nurse-midwife to ensure the quality of health care provided to patients.

(d) In order for a certified nurse-midwife to be a supervising provider for purposes of a transition-to-practice agreement, the certified nurse-midwife shall submit to the department evidence of completion of ten thousand hours of practice as a certified nurse-midwife which have been completed under a transition-to-practice agreement, under a collaborative agreement, under an integrated practice agreement, through independent practice, or under any combination of such agreements or practice, as allowed in this state or another state.

~~(2) A certified nurse midwife shall perform the functions detailed in the practice agreement only under the supervision of the licensed practitioner responsible for the medical care of the patients described in the practice agreement. If the collaborating licensed practitioner named in the practice agreement becomes temporarily unavailable, the certified nurse midwife may perform the authorized medical functions only under the supervision of another licensed practitioner designated as a temporary substitute for that purpose by the collaborating licensed practitioner.~~

~~(3) A certified nurse midwife may perform authorized medical functions only in the following settings:~~

~~(a) In a licensed or certified health care facility as an employee or as a person granted privileges by the facility;~~

~~(b) In the primary office of a licensed practitioner or in any setting authorized by the collaborating licensed practitioner, except that a certified nurse midwife shall not attend a home delivery; or~~

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~~(c) Within an organized public health agency.~~

~~(4) The department shall, after consultations with the board, adopt and promulgate rules and regulations to carry out the Certified Nurse Midwifery Practice Act.~~

Sec. 19. Section 38-615, Reissue Revised Statutes of Nebraska, is amended to read:

38-615 (1) An applicant for licensure under the Advanced Practice Registered Nurse Practice Act to practice as a certified nurse-midwife ~~nurse midwife~~ shall submit such evidence as the board requires showing that the applicant is currently licensed as a registered nurse by the state or has the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska, has successfully completed an approved certified nurse-midwifery ~~nurse midwifery~~ education program, and is certified as a nurse-midwife ~~nurse midwife~~ by a board-approved certifying body.

(2) The department may, with the approval of the board, grant temporary licensure as a certified nurse-midwife ~~nurse midwife~~ for up to one hundred twenty days upon application (a) to graduates of an approved nurse-midwifery ~~nurse midwifery~~ program pending results of the first certifying examination following graduation and (b) to nurse-midwives ~~nurse midwives~~ currently licensed in another state pending completion of the application for a Nebraska license. A temporary license issued pursuant to this section may be extended for up to one year with the approval of the board.

~~(3) An individual holding a temporary certificate or permit as a nurse midwife on July 1, 2007, shall be deemed to be holding a temporary license under this section on such date. The holder of such temporary certificate or permit may continue to practice under such certificate or permit as a temporary license until it would have expired under its terms.~~

(3) ~~(4)~~ If more than five years have elapsed since the completion of

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the nurse-midwifery ~~nurse midwifery~~ program or since the applicant has practiced as a nurse-midwife ~~nurse midwife~~, the applicant shall meet the requirements in subsection (1) of this section and provide evidence of continuing competency, as may be determined by the board, either by means of a reentry program, references, supervised practice, examination, or one or more of the continuing competency activities listed in section 38-145.

Sec. 20. Section 38-616, Reissue Revised Statutes of Nebraska, is amended to read:

38-616 To renew a license as a certified nurse-midwife ~~nurse midwife~~, the applicant shall have a current certification by a board-approved certifying body to practice nurse-midwifery ~~nurse midwifery~~.

Sec. 21. Section 38-617, Reissue Revised Statutes of Nebraska, is amended to read:

38-617 Any person who holds a license to practice nurse-midwifery ~~nurse midwifery~~ in this state and who meets the requirements of the Certified Nurse-Midwifery Practice Act shall have the right to use the title certified nurse-midwife ~~nurse midwife~~ and the abbreviation CNM. No other person shall use such title or abbreviation to indicate that he or she is licensed under the Advanced Practice Registered Nurse Practice Act to practice certified nurse-midwifery ~~nurse midwifery~~.

Sec. 22. Section 38-618, Reissue Revised Statutes of Nebraska, is amended to read:

38-618 Nothing in the Certified Nurse-Midwifery ~~Nurse Midwifery~~ Practice Act shall prohibit a certified nurse-midwife from consulting or collaborating with and referring patients to health care providers not included in the certified nurse-midwife's transition-to-practice agreement ~~be interpreted to permit independent practice~~.

Sec. 23. Section 38-2838, Reissue Revised Statutes of Nebraska, is amended to read:

38-2838 Practitioner means a certified registered nurse anesthetist,

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a certified nurse-midwife ~~nurse midwife~~, a dentist, an optometrist, a nurse practitioner, a physician assistant, a physician, a podiatrist, or a veterinarian.

Sec. 24. Section 38-2850, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

(4) Licensed veterinarians practicing within the scope of their profession;

(5) Certified nurse-midwives ~~nurse midwives~~, certified registered nurse anesthetists, nurse practitioners, and physician assistants who dispense sample medications which are provided by the manufacturer and are dispensed at no charge to the patient;

(6) Optometrists who prescribe or dispense eyeglasses or contact lenses to their own patients, including contact lenses that contain and deliver ocular pharmaceutical agents as authorized under the Optometry

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Practice Act, and ophthalmologists who prescribe or dispense eyeglasses or contact lenses to their own patients, including contact lenses that contain and deliver ocular pharmaceutical agents;

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

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

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

(10) A person accredited by an accrediting body who, pursuant to a medical order, (a) administers, dispenses, or distributes medical gas or medical gas devices to patients or ultimate users or (b) purchases or receives medical gas or medical gas devices for administration, dispensing, or distribution to patients or ultimate users; and

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

Sec. 25. Section 68-911, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-911 (1) Medical assistance shall include coverage for health care and related services as required under Title XIX of the federal Social

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Security Act, including, but not limited to:

(a) Inpatient and outpatient hospital services;

(b) Laboratory and X-ray services;

(c) Nursing facility services;

(d) Home health services;

(e) Nursing services;

(f) Clinic services;

(g) Physician services;

(h) Medical and surgical services of a dentist;

(i) Nurse practitioner services;

(j) Nurse-midwife ~~Nurse midwife~~ services;

(k) Pregnancy-related services;

(l) Medical supplies;

(m) Mental health and substance abuse services; and

(n) Early and periodic screening and diagnosis and treatment services for children which shall include both physical and behavioral health screening, diagnosis, and treatment services.

(2) In addition to coverage otherwise required under this section, medical assistance may include coverage for health care and related services as permitted but not required under Title XIX of the federal Social Security Act, including, but not limited to:

(a) Prescribed drugs;

(b) Intermediate care facilities for persons with developmental disabilities;

(c) Home and community-based services for aged persons and persons with disabilities;

(d) Dental services;

(e) Rehabilitation services;

(f) Personal care services;

(g) Durable medical equipment;

(h) Medical transportation services;

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(i) Vision-related services;

(j) Speech therapy services;

(k) Physical therapy services;

(l) Chiropractic services;

(m) Occupational therapy services;

(n) Optometric services;

(o) Podiatric services;

(p) Hospice services;

(q) Mental health and substance abuse services;

(r) Hearing screening services for newborn and infant children; and

(s) Administrative expenses related to administrative activities, including outreach services, provided by school districts and educational service units to students who are eligible or potentially eligible for medical assistance.

(3) No later than July 1, 2009, the department shall submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid Services to provide coverage under the medical assistance program for community-based secure residential and subacute behavioral health services for all eligible recipients, without regard to whether the recipient has been ordered by a mental health board under the Nebraska Mental Health Commitment Act to receive such services.

(4) On or before October 1, 2014, the department, after consultation with the State Department of Education, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services, as necessary, to provide that the following are direct reimbursable services when provided by school districts as part of an individualized education program or an individualized family service plan: Early and periodic screening, diagnosis, and treatment services for children; medical transportation services; mental health services; nursing services; occupational therapy services; personal care services; physical therapy services; rehabilitation services; speech therapy and other services for

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individuals with speech, hearing, or language disorders; and vision-related services.

Sec. 26. Section 71-503.02, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-503.02 If a physician, a physician assistant, a nurse practitioner, or a certified nurse-midwife ~~nurse midwife~~ licensed under the Uniform Credentialing Act diagnoses a patient as having chlamydia or gonorrhea, the physician may prescribe, provide, or dispense pursuant to section 38-2850 and the physician assistant, nurse practitioner, or certified nurse-midwife ~~nurse midwife~~ may prescribe or provide drug samples of prescription oral antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. Adequate directions for use and medication guides, where applicable, shall be provided along with additional prescription oral antibiotic drugs for any additional partner. The physician, physician assistant, nurse practitioner, or certified nurse-midwife ~~nurse midwife~~ shall at the same time provide written information about chlamydia and gonorrhea to the patient for the patient to provide to the partner or partners. The oral antibiotic drugs prescribed, provided, or dispensed pursuant to this section must be stored, dispensed, and labeled in accordance with federal and state pharmacy laws and regulations. Prescriptions for the patient's sexual partner or partners must include the partner's name. If the infected patient is unwilling or unable to deliver such prescription oral antibiotic drugs to his or her sexual partner or partners, such physician may prescribe, provide, or dispense pursuant to section 38-2850 and such physician assistant, nurse practitioner, or certified nurse-midwife ~~nurse midwife~~ may prescribe or provide samples of the prescription oral antibiotic drugs for delivery to such partner, if such practitioner has sufficient locating information.

Sec. 27. Section 71-1405, Reissue Revised Statutes of Nebraska, is amended to read:

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71-1405 (1) Within thirty days after the date of the birth of any child born in this state with visible congenital deformities, the physician, certified nurse-midwife ~~nurse midwife~~, or other person in attendance upon such birth shall prepare and file with the Department of Health and Human Services a statement setting forth such visible congenital deformity. The form of such statement shall be prepared by the department and shall be a part of the birth report furnished by the department.

(2) For purposes of this section, congenital deformities include a cleft lip, cleft palate, hernia, congenital cataract, or disability resulting from congenital or acquired heart disease, or any congenital abnormality or orthopedic condition that can be cured or materially improved. The orthopedic condition or deformity includes any deformity or disease of childhood generally recognized by the medical profession, and it includes deformities resulting from burns.

Sec. 28. Section 71-2048.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-2048.01 Any hospital required to be licensed under the Health Care Facility Licensure Act shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopathic physicians, osteopathic physicians and surgeons, certified nurse-midwives ~~nurse midwives~~, licensed psychologists, or dentists solely by reason of the credential held by the practitioner. Each such hospital shall establish reasonable standards and procedures to be applied when considering and acting upon an application for medical staff membership and privileges. Once an application is determined to be complete by the hospital and is verified in accordance with such standards and procedures, the hospital shall notify the applicant of its initial recommendation regarding membership and privileges within one hundred twenty days.

Sec. 29. Section 71-2445, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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71-2445 For purposes of the Automated Medication Systems Act:

(1) Automated medication distribution machine means a type of automated medication system that stores medication to be administered to a patient by a person credentialed under the Uniform Credentialing Act;

(2) Automated medication system means a mechanical system that performs operations or activities, other than compounding, administration, or other technologies, relative to storage and packaging for dispensing or distribution of medications and that collects, controls, and maintains all transaction information and includes, but is not limited to, a prescription medication distribution machine or an automated medication distribution machine. An automated medication system may only be used in conjunction with the provision of pharmacist care;

(3) Chart order means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored, for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412, or for a resident in a long-term care facility in which a long-term care automated pharmacy is located from which drugs will be dispensed. Chart order does not include a prescription;

(4) Hospital has the definition found in section 71-419;

(5) Long-term care automated pharmacy means a designated area in a long-term care facility where an automated medication system is located, that stores medications for dispensing pursuant to a medical order to residents in such long-term care facility, that is installed and operated by a pharmacy licensed under the Health Care Facility Licensure Act, and that is licensed under section 71-2451;

(6) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

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(7) Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(8) Pharmacist means any person who is licensed by the State of Nebraska to practice pharmacy;

(9) Pharmacist care means the provision by a pharmacist of medication therapy management, with or without the dispensing of drugs or devices, intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process;

(10) Pharmacist remote order entry means entering an order into a computer system or drug utilization review by a pharmacist licensed to practice pharmacy in the State of Nebraska and located within the United States, pursuant to medical orders in a hospital, long-term care facility, or pharmacy licensed under the Health Care Facility Licensure Act;

(11) Practice of pharmacy means (a) the interpretation, evaluation, and implementation of a medical order, (b) the dispensing of drugs and devices, (c) drug product selection, (d) the administration of drugs or devices, (e) drug utilization review, (f) patient counseling, (g) the provision of pharmaceutical care, and (h) the responsibility for compounding and labeling of dispensed or repackaged drugs and devices, proper and safe storage of drugs and devices, and maintenance of proper records. The active practice of pharmacy means the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(12) Practitioner means a certified registered nurse anesthetist, a certified <u>nurse-midwife</u> ~~nurse midwife~~, a dentist, an optometrist, a nurse practitioner, a physician assistant, a physician, a podiatrist, or a veterinarian;

(13) Prescription means an order for a drug or device issued by a practitioner for a specific patient, for emergency use, or for use in

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immunizations. Prescription does not include a chart order;

(14) Prescription medication distribution machine means a type of automated medication system that packages, labels, or counts medication in preparation for dispensing of medications by a pharmacist pursuant to a prescription; and

(15) Telepharmacy means the provision of pharmacist care, by a pharmacist located within the United States, using telecommunications, remote order entry, or other automations and technologies to deliver care to patients or their agents who are located at sites other than where the pharmacist is located.

Sec. 30. Section 71-2473, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-2473 Practitioner means a certified registered nurse anesthetist, a certified nurse-midwife ~~nurse midwife~~, a dentist, an optometrist, a nurse practitioner, a pharmacist, a physician assistant, a physician, or a podiatrist credentialed under the Uniform Credentialing Act.

Sec. 31. Original sections 28-401, 38-101, 38-205, 38-206, 38-208, 38-209, 38-601, 38-602, 38-603, 38-604, 38-606, 38-607, 38-609, 38-610, 38-611, 38-612, 38-613, 38-615, 38-616, 38-617, 38-618, 38-2838, 38-2850, and 71-1405, Reissue Revised Statutes of Nebraska, and sections 68-911, 71-503.02, 71-2048.01, 71-2445, and 71-2473, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 32. The following section is outright repealed: Section 38-614, Reissue Revised Statutes of Nebraska.