

LEGISLATIVE BILL 752

Approved by the Governor April 18, 2022

Introduced by Arch, 14; Sanders, 45.

A BILL FOR AN ACT relating to public health; to amend sections 38-318, 38-2101, 38-2116, 38-2121, 38-2136, 38-2137, 38-2138, 38-2139, 38-2516, 38-3205, 43-281, 44-513, 44-792, 48-101.01, and 71-8402, Reissue Revised Statutes of Nebraska, sections 28-327, 29-2261, 38-131, 38-178, 38-2112, 38-2115, 38-2124, 38-2125, and 38-2894, Revised Statutes Cumulative Supplement, 2020, and section 38-101, Revised Statutes Supplement, 2021; to adopt the Licensed Professional Counselors Interstate Compact, the Occupational Therapy Practice Interstate Compact, and the Alzheimer's Disease and Other Dementia Support Act; to provide requirements for criminal background checks; to define terms; to require notification regarding stem cell therapy as prescribed; to provide for disciplinary action; to redefine respiratory care under the Respiratory Care Practice Act; to harmonize provisions; and to repeal the original sections.

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

Section 1. The State of Nebraska adopts the Licensed Professional Counselors Interstate Compact in the form substantially as follows:

Licensed Professional Counselors Interstate Compact

SECTION 1: PURPOSE

The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;

B. Enhance the States' ability to protect the public's health and safety;

C. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;

D. Support spouses of relocating Active Duty Military personnel;

E. Enhance the exchange of licensure, investigative, and disciplinary information among Member States;

F. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;

G. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;

H. Invest all Member States with the authority to hold a Licensed Professional Counselor accountable for meeting all State practice laws in the State in which the client is located at the time care is rendered through the mutual recognition of Member State licenses;

I. Eliminate the necessity for licenses in multiple States; and

J. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements.

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action.

C. "Alternative Program" means a nondisciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners.

D. "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

E. "Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.

F. "Current Significant Investigative Information" means:

1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed

Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether the Licensed Professional Counselor has been notified and had an opportunity to respond.

G. "Data System" means a repository of information about Licensees, including, but not limited to, continuing education, examination, licensure, investigative, Privilege to Practice and Adverse Action information.

H. "Encumbered License" means a license in which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and said Adverse Action has been reported to the National Practitioners Data Bank (NPDB).

I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Licensed Professional Counseling by a Licensing Board.

J. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

K. "Home State" means the Member State that is the Licensee's primary State of residence.

L. "Impaired Practitioner" means an individual who has a condition(s) that may impair their ability to practice as a Licensed Professional Counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

M. "Investigative Information" means information, records, and documents received or generated by a Professional Counseling Licensing Board pursuant to an investigation.

N. "Jurisprudence Requirement" if required by a Member State, means the assessment of an individual's knowledge of the laws and Rules governing the practice of Professional Counseling in a State.

O. "Licensed Professional Counselor" means a counselor licensed by a Member State, regardless of the title used by that State, to independently assess, diagnose, and treat behavioral health conditions.

P. "Licensee" means an individual who currently holds an authorization from the State to practice as a Licensed Professional Counselor.

Q. "Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors.

R. "Member State" means a State that has enacted the Compact.

S. "Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State.

T. "Professional Counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a Licensed Professional Counselor.

U. "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice.

V. "Rule" means a regulation promulgated by the Commission that has the force of law.

W. "Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State.

X. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Professional Counseling.

Y. "Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose, and treat behavioral health conditions.

Z. "Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and unrestricted practice of Professional Counseling.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To Participate in the Compact, a State must currently:

1. License and regulate Licensed Professional Counselors;
2. Require Licensees to pass a nationally recognized examination approved by the Commission;

3. Require Licensees to have a sixty semester-hour (or ninety quarter-hour) master's degree in counseling or sixty semester-hours (or ninety quarter-hours) of graduate course work including the following topic areas:

- a. Professional Counseling Orientation and Ethical Practice;
- b. Social and Cultural Diversity;
- c. Human Growth and Development;
- d. Career Development;
- e. Counseling and Helping Relationships;
- f. Group Counseling and Group Work;
- g. Diagnosis and Treatment; Assessment and Testing;
- h. Research and Program Evaluation; and
- i. Other areas as determined by the Commission.

4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission;

5. Have a mechanism in place for receiving and investigating complaints about Licensees.

B. A Member State shall:

1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A Member State must fully implement a criminal background check requirement, within a timeframe established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions.

b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

4. Comply with the Rules of the Commission;

5. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable State laws;

6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License in another Member State in accordance with the terms of the Compact and Rules; and

7. Provide for the attendance of the State's commissioner to the Counseling Compact Commission meetings.

C. Member States may charge a fee for granting the Privilege to Practice.

D. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single State License as provided under the laws of each Member State. However, the Single State License granted to these individuals shall not be recognized as granting a Privilege to Practice Professional Counseling in any other Member State.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member State.

SECTION 4. PRIVILEGE TO PRACTICE

A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;

2. Have a valid United States social security number or national practitioner identifier;

3. Be eligible for a Privilege to Practice in any Member State in accordance with Section 4(D), (G) and (H);

4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two years;

5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);

6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

7. Meet any Continuing Competence/Education requirements established by the Home State;

8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and

9. Report to the Commission any Adverse Action, Encumbrance, or restriction on license taken by any non-Member State within thirty days from the date the action is taken.

B. The Privilege to Practice is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of Section 4(A) to maintain the Privilege to Practice in the Remote State.

C. A Licensee providing Professional Counseling in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

E. If a Home State license is encumbered, the Licensee shall lose the Privilege to Practice in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and

2. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two years.

F. Once an Encumbered License in the Home State is restored to good

standing, the Licensee must meet the requirements of Section 4(A) to obtain a Privilege to Practice in any Remote State.

G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual may lose the Privilege to Practice in all other Remote States until the following occur:

1. The specific period of time for which the Privilege to Practice was removed has ended;
2. All fines have been paid; and
3. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two years.

H. Once the requirements of Section 4(G) have been met, the Licensee must meet the requirements in Section 4(A) to obtain a Privilege to Practice in a Remote State.

SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO PRACTICE

A. A Licensed Professional Counselor may hold a Home State license, which allows for a Privilege to Practice in other Member States, in only one Member State at a time.

B. If a Licensed Professional Counselor changes primary State of residence by moving between two Member States:

1. The Licensed Professional Counselor shall file an application for obtaining a new Home State license based on a Privilege to Practice, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new Home State license by virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor meets the pertinent criteria outlined in Section 4 via the Data System, without need for primary source verification except for:

- a. a Federal Bureau of Investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;
- b. other criminal background check as required by the new Home State; and
- c. completion of any requisite Jurisprudence Requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Section 4, the new Home State may apply its requirements for issuing a new Single State License.

5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active Duty Military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State, or through the process outlined in Section 5.

SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.

B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

SECTION 8. ADVERSE ACTIONS

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State, and
2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

3. Only the Home State shall have the power to take Adverse Action against a Licensed Professional Counselor's license issued by the Home State.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.

E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

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

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

A. The Compact Member States hereby create and establish a joint public agency known as the Counseling Compact Commission:

1. The Commission is an instrumentality of the Compact States.

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

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one delegate selected by that Member State's Licensing Board.

2. The delegate shall be either:

a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or

b. An administrator of the Licensing Board.

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

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within sixty days.

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

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

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

8. The Commission shall by Rule establish a term of office for delegates and may by Rule establish term limits.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

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

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate Rules which shall be binding to the extent and in the manner provided for in the Compact;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or

be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;
8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;
9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;
11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
13. Establish a budget and make expenditures;
14. Borrow money;
15. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
16. Provide and receive information from, and cooperate with, law enforcement agencies;
17. Establish and elect an Executive Committee; and
18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.
2. The Executive Committee shall be composed of up to eleven members:
 - a. Seven voting members who are elected by the Commission from the current membership of the Commission; and
 - b. Up to four ex officio, nonvoting members from four recognized national professional counselor organizations.
 - c. The ex officio members will be selected by their respective organizations.
3. The Commission may remove any member of the Executive Committee as provided in bylaws.
4. The Executive Committee shall meet at least annually.
5. The Executive Committee shall have the following duties and responsibilities:
 - a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Privilege to Practice;
 - b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
 - c. Prepare and recommend the budget;
 - d. Maintain financial records on behalf of the Commission;
 - e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;
 - f. Establish additional committees as necessary; and
 - g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Section 11.
2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, nonpublic meeting if the Commission or Executive Committee or other committees of the Commission must discuss:
 - a. Noncompliance of a Member State with its obligations under the Compact;
 - b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
 - c. Current, threatened, or reasonably anticipated litigation;
 - d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 - e. Accusing any person of a crime or formally censuring any person;
 - f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - h. Disclosure of investigative records compiled for law enforcement purposes;
 - i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or Member State statute.

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

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

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

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

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

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

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall have no greater liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities, than a state employee would have under the same or similar circumstances; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

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

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

SECTION 10. DATA SYSTEM

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.

B. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a license or Privilege to Practice;

4. Nonconfidential information related to Alternative Program participation;

5. Any denial of application for licensure, and the reason(s) for such denial;

6. Current Significant Investigative Information; and
7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

SECTION 11. RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each Member State Professional Counseling Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rulemaking shall include:

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

2. The text of the proposed Rule or amendment and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person; and

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

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

1. At least twenty-five persons;

2. A State or federal governmental subdivision or agency; or

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

I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

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

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

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

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

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

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule.

if any, based on the Rulemaking record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Member State funds;
3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or
4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

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

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

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

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

H. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non-Member States.

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

I. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal

district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

SECTION 13. DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional Counseling Licensing Board to comply with the investigative and Adverse Action reporting requirements of the Compact prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any Professional Counseling licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

SECTION 14. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws properly promulgated by the Commission, are binding upon the Member States.

E. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

Sec. 2. The State of Nebraska adopts the Occupational Therapy Practice Interstate Compact in the form substantially as follows:

ARTICLE 1. PURPOSE.

The purpose of the Occupational Therapy Practice Interstate Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient or client is located at the time of the patient or client encounter. This Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to occupational therapy services by providing for the mutual recognition of other Member State licenses;

B. Enhance the states' ability to protect the public health and safety;

C. Encourage the cooperation of Member States in regulating multistate occupational therapy practice;

D. Support spouses of relocating military members;

E. Enhance the exchange of licensure, investigative, and disciplinary

information between Member States;

F. Allow a Remote State to hold a provider of services with a Compact Privilege in that state accountable to that state's practice standards; and

G. Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

ARTICLE 2. DEFINITIONS.

As used in the Occupational Therapy Practice Interstate Compact, and except as otherwise provided, the following definitions apply:

A. Active duty military means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

B. Adverse action means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's license or Compact Privilege such as revocation, suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.

C. Alternative program means a nondisciplinary monitoring process approved by an occupational therapy licensing board to address Impaired Practitioners.

D. Compact Privilege means the authorization, which is equivalent to a license, granted by a Remote State to allow a Licensee from another Member State to practice as an occupational therapist or practice as an occupational therapy assistant in the Remote State under its laws and rules. The practice of occupational therapy occurs in the Member State where the patient or client is located at the time of the patient or client encounter.

E. Continuing Competence/Education means a requirement, as a condition of license renewal, to provide evidence of participation in, and completion of, educational and professional activities relevant to practice or area of work.

F. Current significant investigative information means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

G. Data system means a repository of information about Licensees, including, but not limited to, licensure, investigative information, Compact Privilege, and adverse action.

H. Encumbered License means a license in which an adverse action restricts the practice of occupational therapy by the Licensee and the adverse action has been reported to the National Practitioner Data Bank.

I. Executive Committee means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

J. Home State means the Member State that is the Licensee's primary state of residence.

K. Impaired Practitioner means an individual whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

L. Investigative information means information, records, or documents received or generated by an occupational therapy licensing board pursuant to an investigation.

M. Jurisprudence requirement means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state.

N. Licensee means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant.

O. Member State means a state that has enacted this Compact.

P. Occupational therapist means an individual who is licensed by a state to practice occupational therapy.

Q. Occupational therapy assistant means an individual who is licensed by a state to assist in the practice of occupational therapy.

R. Occupational therapy, occupational therapy practice, and the practice of occupational therapy mean the care and services provided by an occupational therapist or an occupational therapy assistant as set forth in the Member State's statutes and regulations.

S. Occupational Therapy Interstate Compact Commission or Commission means the national administrative body whose membership consists of all states that have enacted this Compact.

T. Occupational therapy licensing board or licensing board means the agency of a state that is responsible for the licensing and regulation of occupational therapists and occupational therapy assistants.

U. Primary state of residence means the state, also known as the Home State, in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by: Driver's license, federal income tax return, lease, deed, mortgage or voter registration or other verifying documentation as further defined by Commission Rules.

V. Remote State means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Compact Privilege.

W. Rule means a regulation promulgated by the Commission that has the force of law.

X. State means any state, commonwealth, district, or territory of the United States of America that regulates the practice of occupational therapy.

Y. Single-State License means an occupational therapist or occupational therapy assistant license issued by a Member State that authorizes practice only within the issuing state and does not include a Compact Privilege in any other Member State.

Z. Telehealth means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention, or consultation.

ARTICLE 3. STATE PARTICIPATION IN THIS COMPACT.

A. To participate in this Compact, a Member State shall:

1. License occupational therapists and occupational therapy assistants;
2. Participate fully in the data system, including, but not limited to, using the Commission's unique identifier as defined in Rules of the Commission;
3. Have a mechanism in place for receiving and investigating complaints about Licensees;

4. Notify the Commission, in compliance with the terms of this Compact and Rules, of any adverse action or the availability of investigative information regarding a Licensee;

5. Implement or utilize procedures for considering the criminal history records of applicants for an initial Compact Privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

a. A Member State shall, within a timeframe established by the Commission, require a criminal background check for a Licensee seeking or applying for a Compact Privilege whose primary state of residence is that Member State, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions.

b. Communication between a Member State, the Commission, and among Member States regarding the verification of eligibility for licensure through this Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

6. Comply with the Rules of the Commission;

7. Utilize only a recognized national examination as a requirement for licensure pursuant to the Rules of the Commission; and

8. Have Continuing Competence/Education requirements as a condition for license renewal.

B. A Member State shall grant the Compact Privilege to a Licensee holding a valid unencumbered license in another Member State in accordance with the terms of this Compact and Rules.

C. Member States may charge a fee for granting a Compact Privilege.

D. A Member State shall provide for the state's delegate to attend all Commission meetings.

E. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single-State License as provided under the laws of each Member State. However, the Single-State License granted to these individuals shall not be recognized as granting the Compact Privilege in any other Member State.

F. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.

ARTICLE 4. COMPACT PRIVILEGE.

A. To exercise the Compact Privilege under the terms and provisions of this Compact, the Licensee shall:

1. Hold a license in the Home State;
2. Have a valid United States social security number or national practitioner identification number;
3. Have no encumbrance on any state license;
4. Be eligible for a Compact Privilege in any Member State in accordance with sections D, F, G, and H of this Article 4;

5. Have paid all fines and completed all requirements resulting from any adverse action against any license or Compact Privilege, and two years have elapsed from the date of such completion;

6. Notify the Commission that the Licensee is seeking the Compact Privilege within a Remote State(s);

7. Pay any applicable fees, including any state fee, for the Compact Privilege;

8. Complete a criminal background check in accordance with subsection A5 of Article 3. The Licensee shall be responsible for the payment of any fee associated with the completion of such criminal background check;

9. Meet any jurisprudence requirements established by the Remote State(s) in which the Licensee is seeking a Compact Privilege; and

10. Report to the Commission adverse action taken by any non-Member State within thirty days from the date the adverse action is taken.

B. The Compact Privilege is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of section A of this Article 4 to maintain this Compact Privilege in the Remote State.

C. A Licensee providing occupational therapy in a Remote State under the Compact Privilege shall function within the laws and regulations of the Remote State.

D. Occupational therapy assistants practicing in a Remote State shall be supervised by an occupational therapist licensed or holding a Compact Privilege in that Remote State.

E. A Licensee providing occupational therapy in a Remote State is subject to that state's regulatory authority. A Remote State may, in accordance with due process and that state's laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of time, impose fines, or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Compact Privilege in any state until the specific time for removal has passed and all fines are paid.

F. If a Home State license is encumbered, the Licensee shall lose the Compact Privilege in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and

2. Two years have elapsed from the date on which the Home State license is no longer encumbered in accordance with subsection F1 of this Article 4.

G. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of section A of this Article 4 to obtain a Compact Privilege in any Remote State.

H. If a Licensee's Compact Privilege in any Remote State is removed, the individual may lose the Compact Privilege in any other Remote State until the following occur:

1. The specific period of time for which the Compact Privilege was removed has ended;

2. All fines have been paid and all conditions have been met;

3. Two years have elapsed from the date of completing requirements for subsections H1 and 2 of this Article 4; and

4. The Compact Privileges are reinstated by the Commission, and the compact data system is updated to reflect reinstatement.

I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous charge, privileges shall be restored through the compact data system.

J. Once the requirements of section H of this Article 4 have been met, the Licensee must meet the requirements in section A of this Article 4 to obtain a Compact Privilege in a Remote State.

ARTICLE 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE.

A. An occupational therapist and an occupational therapy assistant may hold a Home State license, issued by the Home State which allows for Compact Privileges, in only one Member State at a time.

B. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two Member States:

1. The occupational therapist or occupational therapy assistant shall file an application for obtaining a new Home State license by virtue of a Compact Privilege, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new Home State license by virtue of compact privilege, the new Home State shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in Article 4 via the data system, without need for primary source verification except for:

a. A Federal Bureau of Investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable Rules adopted by the Commission in accordance with Public Law 92-544;

b. Other criminal background check as required by the new Home State; and

c. Submission of any requisite jurisprudence requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Compact Privilege once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in Article 4, the new Home State shall apply its requirements for issuing a new Single-State License.

5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the state criteria shall apply for issuance of a Single-State License in the new state.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single-State License in multiple states, however, for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.

ARTICLE 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES.

Active duty military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new state or through the process described in Article 5.

ARTICLE 7. ADVERSE ACTIONS.

A. A Home State shall have exclusive power to impose adverse action against a license issued by the Home State.

B. In addition to the other powers conferred by state law, a Remote State

shall have the authority, in accordance with existing state due process law, to:

1. Take adverse action against an occupational therapist's or occupational therapy assistant's Compact Privilege within that Member State.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

C. For purposes of taking adverse action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own state laws to determine appropriate action.

D. The Home State shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The Home State, where the investigations were initiated, shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the Commission data system. The Commission data system administrator shall promptly notify the new Home State of any adverse actions.

E. A Member State, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.

F. A Member State may take adverse action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the adverse action.

G. Joint Investigations.

1. In addition to the authority granted to a Member State by its respective state occupational therapy laws and regulations or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this Compact.

H. If an adverse action is taken by the Home State against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's Compact Privilege in all other Member States shall be deactivated until all encumbrances have been removed from the state license. All Home State disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license shall include a statement that the occupational therapist's or occupational therapy assistant's Compact Privilege is deactivated in all Member States during the pendency of the order.

I. If a Member State takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the Home State of any adverse actions by Remote States.

J. Nothing in this Compact shall override a Member State's decision that participation in an alternative program may be used in lieu of adverse action.

ARTICLE 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION.

A. The Member States hereby create and establish a joint public agency known as the Occupational Therapy Interstate Compact Commission:

1. The Commission is an instrumentality of the Compact States.

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

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings.

1. Each Member State shall have and be limited to one delegate selected by that Member State's licensing board.

2. The delegate shall be either:

a. A current member of the licensing board, who is an occupational therapist, occupational therapy assistant, or public member; or

b. An administrator of the licensing board.

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

4. The Member State board shall fill any vacancy occurring in the Commission within ninety days.

5. Each delegate shall be entitled to one vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

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

7. The Commission shall establish by Rule a term of office for delegates.

C. The Commission shall have the following powers and duties:

1. Establish a Code of Ethics for the Commission;

2. Establish the fiscal year of the Commission;

3. Establish bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

6. Promulgate uniform Rules to facilitate and coordinate implementation and administration of this Compact. The Rules shall have the force and effect of law and shall be binding in all Member States;

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

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

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

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

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

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

14. Establish a budget and make expenditures;

15. Borrow money;

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

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

18. Establish and elect an executive committee; and

19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of occupational therapy licensure and practice.

D. The Executive Committee.

The executive committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The executive committee shall be composed of nine members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex officio, nonvoting member from a recognized national occupational therapy professional association; and

c. One ex officio, nonvoting member from a recognized national occupational therapy certification organization.

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

3. The Commission may remove any member of the executive committee as provided in bylaws.

4. The executive committee shall meet at least annually.

5. The executive committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact, fees paid by Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission.

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Article 10.

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

a. Noncompliance of a Member State with its obligations under this Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the

Commission's internal personnel practices and procedures;

- c. Current, threatened, or reasonably anticipated litigation;
- d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- e. Accusing any person of a crime or formally censuring any person;
- f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- h. Disclosure of investigative records compiled for law enforcement purposes;
- i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact; or
- j. Matters specifically exempted from disclosure by federal or Member State statute.

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

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

F. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

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

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

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

G. Qualified Immunity, Defense, and Indemnification.

1. The members, officers, executive director, employees, and representatives of the Commission shall have no greater liability than a state employee would have under the same or similar circumstances, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

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

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

ARTICLE 9. DATA SYSTEM.

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in Member States.

B. A Member State shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable utilizing a unique identifier as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or Compact Privilege;
4. Nonconfidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason for such denial;
6. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission; and
7. Current significant investigative information.

C. Current significant investigative information and other investigative information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any adverse action taken against a Licensee or an individual applying for a license. Adverse action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the data system.

ARTICLE 10. RULEMAKING.

A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

B. The Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within four years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform;
- and
2. On the website of each Member State occupational therapy licensing board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;
 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;
 3. A request for comments on the proposed Rule from any interested person;
- and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

1. At least twenty-five persons;
2. A State or federal governmental subdivision or agency; or
3. An association or organization having at least twenty-five members.

I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.
2. Hearings shall be conducted in a manner providing each person who

wishes to comment a fair and reasonable opportunity to comment orally or in writing.

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

4. Nothing in this Article shall be construed as requiring a separate hearing on each Rule.

Rules may be grouped for the convenience of the Commission at hearings required by this Article.

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

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing; provided that the usual Rulemaking procedures provided in this Compact and in this Article shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Member State funds;
3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or
4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of this Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

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

B. Default, Technical Assistance, and Termination.

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

- a. Provide written notice to the defaulting state and other Member States of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission; and
- b. Provide remedial training and specific technical assistance regarding the default.

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

3. Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

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

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

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

C. Dispute Resolution.

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to this Compact that arise among Member States and between Member and non-Member States.

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

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of this Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

ARTICLE 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT.

A. This Compact shall come into effect on the date on which this Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of this Compact.

B. Any state that joins this Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which this Compact becomes law in that state. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that State.

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six months after enactment of the repealing statute.

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

D. Nothing contained in this Compact shall be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

ARTICLE 13. CONSTRUCTION AND SEVERABILITY.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, this Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

ARTICLE 14. BINDING EFFECT OF COMPACT AND OTHER LAWS.

A. A Licensee providing occupational therapy in a Remote State under the Compact Privilege shall function within the laws and regulations of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with this Compact.

C. Any laws in a Member State in conflict with this Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws promulgated by the Commission, are binding upon the Member States.

E. All agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

Sec. 3. Section 28-327, Revised Statutes Cumulative Supplement, 2020, is amended to read:

28-327 No abortion shall be performed except with the voluntary and informed consent of the woman upon whom the abortion is to be performed. Except in the case of an emergency situation, consent to an abortion is voluntary and informed only if:

(1) The woman is told the following by the physician who is to perform the abortion, by the referring physician, or by a physician assistant or registered nurse licensed under the Uniform Credentialing Act who is an agent of either physician, at least twenty-four hours before the abortion:

(a) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, perforated uterus, danger to subsequent pregnancies, and infertility;

(b) The probable gestational age of the unborn child at the time the abortion is to be performed;

(c) The medical risks associated with carrying her child to term;

(d) That she cannot be forced or required by anyone to have an abortion and is free to withhold or withdraw her consent for an abortion; and

(e) Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you change your mind and want to continue your pregnancy after taking mifepristone, information on finding immediate medical assistance is available on the website of the Department of Health and Human Services.

The person providing the information specified in this subdivision to the person upon whom the abortion is to be performed shall be deemed qualified to so advise and provide such information only if, at a minimum, he or she has had training in each of the following subjects: Sexual and reproductive health; abortion technology; contraceptive technology; short-term counseling skills; community resources and referral; and informed consent. The physician or the physician's agent may provide this information by telephone without conducting a physical examination or tests of the patient, in which case the information required to be supplied may be based on facts supplied by the patient and whatever other relevant information is reasonably available to the physician or the physician's agent;

(2) The woman is informed by telephone or in person, by the physician who is to perform the abortion, by the referring physician, or by an agent of either physician, at least twenty-four hours before the abortion:

(a) The name of the physician who will perform the abortion;

(b) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(c) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion;

(d) That she has the right to review the printed materials described in section 28-327.01. The physician or his or her agent shall orally inform the woman that the materials have been provided by the Department of Health and Human Services and that they describe the unborn child, list agencies which offer alternatives to abortion, and include information on finding immediate medical assistance if she changes her mind after taking mifepristone and wants to continue her pregnancy. If the woman chooses to review the materials, they shall either be given to her at least twenty-four hours before the abortion or mailed to her at least seventy-two hours before the abortion by certified mail, restricted delivery to addressee, which means the postal employee can only deliver the mail to the addressee. The physician and his or her agent may disassociate themselves from the materials and may comment or refrain from commenting on them as they choose; and

(e) That she has the right to request a comprehensive list, compiled by the Department of Health and Human Services, of health care providers, facilities, and clinics that offer to have ultrasounds performed by a person at least as qualified as a registered nurse licensed under the Uniform Credentialing Act, including and specifying those that offer to perform such ultrasounds free of charge. The list shall be arranged geographically and shall include the name, address, hours of operation, and telephone number of each entity. If requested by the woman, the physician who is to perform the abortion, the referring physician, or his or her agent shall provide such a list as compiled by the department;

(3) If an ultrasound is used prior to the performance of an abortion, the physician who is to perform the abortion, the referring physician, or a physician assistant or registered nurse licensed under the Uniform Credentialing Act who is an agent of either physician, or any qualified agent of either physician, shall:

(a) Perform an ultrasound of the woman's unborn child of a quality consistent with standard medical practice in the community at least one hour prior to the performance of the abortion;

(b) Simultaneously display the ultrasound images so that the woman may choose to view the ultrasound images or not view the ultrasound images. The woman shall be informed that the ultrasound images will be displayed so that she is able to view them. Nothing in this subdivision shall be construed to require the woman to view the displayed ultrasound images; and

(c) If the woman requests information about the displayed ultrasound image, her questions shall be answered. If she requests a detailed, simultaneous, medical description of the ultrasound image, one shall be provided that includes the dimensions of the unborn child, the presence of cardiac activity, if present and viewable, and the presence of external members and internal organs, if present and viewable;

(4) At least one hour prior to the performance of an abortion, a physician, psychiatrist, psychologist, mental health practitioner, physician assistant, registered nurse, or social worker licensed under the Uniform Credentialing Act or a professional counselor holding a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact has:

(a) Evaluated the pregnant woman to identify if the pregnant woman had the perception of feeling pressured or coerced into seeking or consenting to an abortion;

(b) Evaluated the pregnant woman to identify the presence of any risk factors associated with abortion;

(c) Informed the pregnant woman and the physician who is to perform the abortion of the results of the evaluation in writing. The written evaluation shall include, at a minimum, a checklist identifying both the positive and negative results of the evaluation for each risk factor associated with abortion and both the licensed person's written certification and the woman's written certification that the pregnant woman was informed of the risk factors associated with abortion as discussed; and

(d) Retained a copy of the written evaluation results in the pregnant woman's permanent record;

(5) If any risk factors associated with abortion were identified, the pregnant woman was informed of the following in such manner and detail that a reasonable person would consider material to a decision of undergoing an elective medical procedure:

(a) Each complication associated with each identified risk factor; and

(b) Any quantifiable risk rates whenever such relevant data exists;

(6) The physician performing the abortion has formed a reasonable medical judgment, documented in the permanent record, that:

(a) The preponderance of statistically validated medical studies demonstrates that the physical, psychological, and familial risks associated with abortion for patients with risk factors similar to the patient's risk factors are negligible risks;

(b) Continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated by induced abortion; or

(c) Continuance of the pregnancy would involve less risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated by an induced abortion;

(7) The woman certifies in writing, prior to the abortion, that:

(a) The information described in subdivisions (1) and (2)(a), (b), and (c) of this section has been furnished her;

(b) She has been informed of her right to review the information referred to in subdivision (2)(d) of this section; and

(c) The requirements of subdivision (3) of this section have been performed if an ultrasound is performed prior to the performance of the abortion; and

(8) Prior to the performance of the abortion, the physician who is to perform the abortion or his or her agent receives a copy of the written certification prescribed by subdivision (7) of this section. The physician or his or her agent shall retain a copy of the signed certification form in the woman's medical record.

Sec. 4. Section 29-2261, Revised Statutes Cumulative Supplement, 2020, is amended to read:

29-2261 (1) Unless it is impractical to do so, when an offender has been convicted of a felony other than murder in the first degree, the court shall not impose sentence without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation. When an offender has been convicted of murder in the first degree and (a) a jury renders a verdict finding the existence of one or more aggravating circumstances as provided in section 29-2520 or (b)(i) the information contains a notice of aggravation as provided in section 29-1603 and (ii) the offender waives his or her right to a jury determination of the alleged aggravating circumstances, the court shall not commence the sentencing determination proceeding as provided in section 29-2521 without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation.

(2) A court may order a presentence investigation in any case, except in cases in which an offender has been convicted of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic infraction, or any corresponding city or village ordinance.

(3) The presentence investigation and report shall include, when available, an analysis of the circumstances attending the commission of the crime, the offender's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, and personal habits, and any other matters that the probation officer deems relevant or the court directs to be included. All local and state police agencies and Department of Correctional Services adult correctional facilities shall furnish to the probation officer copies of such criminal records, in any such case referred to the probation officer by the court of proper jurisdiction, as the probation officer shall require without cost to the court or the probation officer.

Such investigation shall also include:

(a) Any written statements submitted to the county attorney by a victim; and

(b) Any written statements submitted to the probation officer by a victim.

(4) If there are no written statements submitted to the probation officer, he or she shall certify to the court that:

(a) He or she has attempted to contact the victim; and

(b) If he or she has contacted the victim, such officer offered to accept the written statements of the victim or to reduce such victim's oral statements to writing.

For purposes of subsections (3) and (4) of this section, the term victim shall be as defined in section 29-119.

(5) Before imposing sentence, the court may order the offender to submit to psychiatric observation and examination for a period of not exceeding sixty days or such longer period as the court determines to be necessary for that purpose. The offender may be remanded for this purpose to any available clinic or mental hospital, or the court may appoint a qualified psychiatrist to make the examination. The report of the examination shall be submitted to the court.

(6)(a) Any presentence report, substance abuse evaluation, or psychiatric examination shall be privileged and shall not be disclosed directly or indirectly to anyone other than a judge; probation officers to whom an offender's file is duly transferred; the probation administrator or his or her designee; alcohol and drug counselors, mental health practitioners, psychiatrists, and psychologists licensed or certified under the Uniform Credentialing Act to conduct substance abuse evaluations and treatment; or others entitled by law to receive such information, including personnel and mental health professionals for the Nebraska State Patrol specifically assigned to sex offender registration and community notification for the sole purpose of using such report, evaluation, or examination for assessing risk and for community notification of registered sex offenders.

(b) For purposes of this subsection, mental health professional means (i) a practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act, (ii) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided under similar provisions of the Psychology Interjurisdictional Compact, or (iii) a practicing mental health professional licensed or certified in this state as provided in the Mental Health Practice Act, or (iv) a practicing professional counselor holding a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact.

(7) The court shall permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or parts of the report, evaluation, or examination, as determined by the court, by the prosecuting attorney and defense counsel. Beginning July 1, 2016, such inspection shall be by electronic access only unless the court determines such access is not available to the prosecuting attorney or defense counsel. The State Court Administrator shall determine and develop the means of electronic access to such presentence reports, evaluations, and examinations. Upon application by the prosecuting attorney or defense counsel, the court may order that addresses, telephone numbers, and other contact information for victims or witnesses named in the report, evaluation, or examination be redacted upon a showing by a preponderance of the evidence that such redaction is warranted in the interests of public safety. The court may permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or examination of parts of the report, evaluation, or examination by any other person having a proper interest therein whenever the court finds it is in the best interest of a particular offender. The court may allow fair opportunity for an offender to provide additional information for the court's consideration.

(8) If an offender is sentenced to imprisonment, a copy of the report of any presentence investigation, substance abuse evaluation, or psychiatric examination shall be transmitted immediately to the Department of Correctional Services. Upon request, the Board of Parole or the Division of Parole Supervision may receive a copy of the report from the department.

(9) Notwithstanding subsections (6) and (7) of this section, the Supreme Court or an agent of the Supreme Court acting under the direction and supervision of the Chief Justice shall have access to psychiatric examinations, substance abuse evaluations, and presentence investigations and reports for research purposes. The Supreme Court and its agent shall treat such information as confidential, and nothing identifying any individual shall be released.

Sec. 5. Section 38-101, Revised Statutes Supplement, 2021, is amended to read:

38-101 Sections 38-101 to 38-1,146 and section 6 of this act 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;
- (5) The Certified 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 Dialysis Patient Care Technician Registration Act;
- (12) The Emergency Medical Services Practice Act;
- (13) The Environmental Health Specialists Practice Act;
- (14) The Funeral Directing and Embalming Practice Act;
- (15) The Genetic Counseling Practice Act;
- (16) The Hearing Instrument Specialists Practice Act;
- (17) The Licensed Practical Nurse-Certified Practice Act until November 1, 2017;
- (18) The Massage Therapy Practice Act;
- (19) The Medical Nutrition Therapy Practice Act;
- (20) The Medical Radiography Practice Act;
- (21) The Medicine and Surgery Practice Act;
- (22) The Mental Health Practice Act;
- (23) The Nurse Practice Act;
- (24) The Nurse Practitioner Practice Act;
- (25) The Nursing Home Administrator Practice Act;
- (26) The Occupational Therapy Practice Act;
- (27) The Optometry Practice Act;
- (28) The Perfusion Practice Act;
- (29) The Pharmacy Practice Act;
- (30) The Physical Therapy Practice Act;
- (31) The Podiatry Practice Act;
- (32) The Psychology Practice Act;
- (33) The Respiratory Care Practice Act;
- (34) The Surgical First Assistant Practice Act; and
- (35) The Veterinary Medicine and Surgery Practice Act.

If there is any conflict between any provision of sections 38-101 to 38-1,146 and section 6 of this act and any provision of a practice act, the provision of the practice act shall prevail except as otherwise specifically provided in section 38-129.02.

Sec. 6. (1) For purposes of this section:

(a) Health care practitioner means a person licensed or certified under the Uniform Credentialing Act;

(b) Human stem cells means human cells, tissues, or cellular or tissue-based products, as defined in 21 C.F.R. 1271.3 as amended August 31, 2016, as published in the Federal Register at 81 Fed. Reg. 60223;

(c) Informed written consent related to stem-cell-based therapy means a signed writing executed by a patient that confirms that (i) a health care practitioner has explained the treatment, (ii) the treatment has not received the approval of the United States Food and Drug Administration, including for experimental use, and (iii) the patient understands that the treatment has not received such approval; and

(d) Stem-cell-based therapy means treatment using products derived from human stem cells.

(2) Any health care practitioner who performs stem-cell-based therapy shall, by informed written consent, communicate to any patient seeking stem-cell-based therapy from such practitioner that it is not approved by the United States Food and Drug Administration.

(3) This section does not apply to a health care practitioner using stem-cell-based therapy products that are approved by the United States Food and Drug Administration or stem-cell-based therapy for which the health care practitioner obtained approval for an investigational new drug or device from the United States Food and Drug Administration for use of human cells, tissues, or cellular or tissue-based products.

Sec. 7. Section 38-131, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-131 (1) An applicant for an initial license to practice as a registered nurse, a licensed practical nurse, a physical therapist, a physical therapy assistant, a psychologist, an advanced emergency medical technician, an emergency medical technician, an audiologist, a speech-language pathologist, a licensed independent mental health practitioner, an occupational therapist, an occupational therapy assistant, or a paramedic or to practice a profession which is authorized to prescribe controlled substances shall be subject to a criminal background check. A criminal background check may also be required for initial licensure or reinstatement of a license governed by the Uniform Credentialing Act if a criminal background check is required by an interstate licensure compact. Except as provided in subsection (3) of this section, the applicant shall submit with the application a full set of fingerprints which shall be forwarded to the Nebraska State Patrol to be submitted to the Federal Bureau of Investigation for a national criminal history record information check. The applicant shall authorize release of the results of the national criminal history record information check to the department. The applicant shall pay the actual cost of the fingerprinting and criminal background check.

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

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

qualified for the permit.

Sec. 8. Section 38-178, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-178 Except as otherwise provided in sections 38-1,119 to 38-1,123, a credential to practice a profession may be denied, refused renewal, or have other disciplinary measures taken against it in accordance with section 38-185 or 38-186 on any of the following grounds:

- (1) Misrepresentation of material facts in procuring or attempting to procure a credential;
- (2) Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
- (3) Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
- (4) Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to section 38-175;
- (5) Conviction of (a) a misdemeanor or felony under Nebraska law or federal law, or (b) a crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
- (6) Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with gross incompetence or gross negligence, or (d) in a pattern of incompetent or negligent conduct;
- (7) Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
- (8) Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
- (9) Illness, deterioration, or disability that impairs the ability to practice the profession;
- (10) Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
- (11) Performing or offering to perform scleral tattooing as defined in section 38-10,172 by a person not credentialed to do so;
- (12) Having had his or her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to section 38-196 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this section;
- (13) Use of untruthful, deceptive, or misleading statements in advertisements, including failure to comply with section 38-124;
- (14) Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
- (15) Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
- (16) Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
- (17) Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
- (18) Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
- (19) Failure to file a report required by section 38-1,124, 38-1,125, or 71-552;
- (20) Failure to maintain the requirements necessary to obtain a credential;
- (21) Violation of an order issued by the department;
- (22) Violation of an assurance of compliance entered into under section 38-1,108;
- (23) Failure to pay an administrative penalty;
- (24) Unprofessional conduct as defined in section 38-179; ~~or~~
- (25) Violation of the Automated Medication Systems Act; ~~or~~
- (26) Failure to comply with section 6 of this act.

Sec. 9. Section 38-318, Reissue Revised Statutes of Nebraska, is amended to read:

38-318 (1) An individual who is licensed as a provisional alcohol and drug counselor at the time of application for licensure as an alcohol and drug counselor is deemed to have met the requirements of a high school diploma or its equivalent, the two hundred seventy hours of education related to alcohol and drug counseling, and the supervised practical training requirement.

(2) An applicant who is licensed as a provisional mental health practitioner or a mental health practitioner or who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact at the time of application for licensure is deemed to have met the requirements of subdivisions (2)(a), (b), (c), (d), and (f) of section 38-314.

Sec. 10. Section 38-2101, Reissue Revised Statutes of Nebraska, is amended to read:

38-2101 Sections 38-2101 to 38-2139 and section 16 of this act shall be known and may be cited as the Mental Health Practice Act.

Sec. 11. Section 38-2112, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-2112 Consultation means a professional collaborative relationship which is between a licensed mental health practitioner and a consultant who is a psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact, a qualified physician, or a licensed independent mental health practitioner, or a professional counselor holding a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact and in which (1) the consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant and (2) the consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

Sec. 12. Section 38-2115, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-2115 (1) Mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Mental health practice does not include:

- (a) The practice of psychology or medicine;
- (b) Prescribing drugs or electroconvulsive therapy;
- (c) Treating physical disease, injury, or deformity;

(d) Diagnosing major mental illness or disorder except in consultation with a qualified physician, a psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact, ~~or a licensed independent mental health practitioner, or a professional counselor holding a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact;~~

(e) Measuring personality or intelligence for the purpose of diagnosis or treatment planning;

(f) Using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician, a licensed psychologist, or a licensed independent mental health practitioner; or

(g) Using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed psychologist.

(3) Mental health practice includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

(4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons who are certified under the Mental Health Practice Act but who do not hold a license licensed under section 38-2122 or a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact shall not engage in mental health practice.

Sec. 13. Section 38-2116, Reissue Revised Statutes of Nebraska, is amended to read:

38-2116 (1)(a) ~~(1)~~ Mental health practitioner means a person who holds himself or herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services.

(b) Independent mental health practitioner means a person who holds himself or herself out as a person qualified to engage in independent mental health practice or a person who offers or renders independent mental health practice services.

~~(2)~~(a) ~~(2)~~ A person who is licensed as a mental health practitioner and certified as a master social worker may use the title licensed clinical social worker.

(b) A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title licensed professional counselor.

(c) A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title licensed marriage and family therapist.

(d) No person shall use the title licensed clinical social worker, licensed professional counselor, or licensed marriage and family therapist unless he or she is licensed and certified as provided in this subsection.

~~(3)~~(a) ~~(3)~~ A person who is licensed as an independent mental health practitioner and certified as a master social worker may use the title licensed independent clinical social worker.

(b) A person who is licensed as an independent mental health practitioner and certified as a professional counselor or who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact may use the title licensed independent professional counselor.

(c) A person who is licensed as an independent mental health practitioner and certified as a marriage and family therapist may use the title licensed independent marriage and family therapist.

(d) No person shall use the title licensed independent clinical social worker, licensed independent professional counselor, or licensed independent marriage and family therapist unless he or she is licensed and certified or holds a privilege as provided in this subsection.

(4) A mental health practitioner shall not represent himself or herself as a physician or psychologist and shall not represent his or her services as being medical or psychological in nature. An independent mental health

practitioner shall not represent himself or herself as a physician or psychologist.

Sec. 14. Section 38-2121, Reissue Revised Statutes of Nebraska, is amended to read:

38-2121 The requirement to be licensed as a mental health practitioner pursuant to the Uniform Credentialing Act in order to engage in mental health practice shall not be construed to prevent:

(1) Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;

(2) Alcohol and drug counselors who are licensed by the Division of Public Health of the Department of Health and Human Services and problem gambling counselors who are certified by the Department of Health and Human Services prior to July 1, 2013, or by the Nebraska Commission on Problem Gambling beginning on July 1, 2013, from practicing their profession. Such exclusion shall include students training and working under the supervision of an individual qualified under section 38-315;

(3) Any person employed by an agency, bureau, or division of the federal government from discharging his or her official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed mental health practitioner, he or she shall be licensed;

(4) Teaching or the conduct of research related to mental health services or consultation with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;

(5) The delivery of mental health services by:

(a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or

(b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;

(6) Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;

(7) The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;

(8) Any person providing emergency crisis intervention or referral services or limited services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice;
or

(9) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan; or -

(10) A person who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact from acting as authorized by such privilege.

Sec. 15. Section 38-2124, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-2124 (1) No person shall hold himself or herself out as an independent mental health practitioner unless he or she is licensed as such by the department or unless he or she holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact. A person shall be qualified to be a licensed independent mental health practitioner if he or she:

(a)(i)(A) Graduated with a master's or doctoral degree from an educational program which is accredited, at the time of graduation or within four years after graduation, by the Council for Accreditation of Counseling and Related Educational Programs, the Commission on Accreditation for Marriage and Family Therapy Education, or the Council on Social Work Education or (B) graduated with a master's or doctoral degree from an educational program deemed by the board to be equivalent in didactic content and supervised clinical experience to an accredited program;

(ii)(A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has three thousand hours of experience supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category; or

(b)(i) Graduated from an educational program which does not meet the

requirements of subdivision (a)(i) of this subsection;

(ii)(A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has seven thousand hours of experience obtained in a period of not less than ten years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

(2) The experience required under this section shall be documented in a reasonable form and manner as prescribed by the board, which may consist of sworn statements from the applicant and his or her employers and supervisors. The board shall not in any case require the applicant to produce individual case records.

(3) The application for an independent mental health practitioner license shall include the applicant's social security number.

Sec. 16. The only persons credentialed pursuant to the Mental Health Practice Act that are eligible to be licensed professional counselors under the Licensed Professional Counselors Interstate Compact are licensed independent mental health practitioners with a certification in professional counseling.

Sec. 17. Section 38-2125, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-2125 (1) The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who:

(a) Meets ~~(1) meets~~ the licensure requirements of the Mental Health Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board; or

(b) Has ~~(2) has~~ been in active practice in the appropriate discipline for at least five years following initial licensure or certification in another jurisdiction and has passed the Nebraska jurisprudence examination.

(2) The department may issue a license based on a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact as provided in section 5 of such compact.

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

Sec. 18. Section 38-2136, Reissue Revised Statutes of Nebraska, is amended to read:

38-2136 No person who is licensed or certified pursuant to the Mental Health Practice Act or who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact shall disclose any information he or she may have acquired from any person consulting him or her in his or her professional capacity except:

(1) With the written consent of the person or, in the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition. When more than one person in a family receives therapy conjointly, each such family member who is legally competent to execute a waiver shall agree to the waiver referred to in this subdivision. Without such a waiver from each family member legally competent to execute a waiver, a practitioner shall not disclose information received from any family member who received therapy conjointly;

(2) As such privilege against disclosure is limited by the laws of the State of Nebraska or as the board may determine by rule and regulation;

(3) When the person waives the privilege against disclosure by bringing charges against the licensee; or

(4) When there is a duty to warn under the limited circumstances set forth in section 38-2137.

Sec. 19. Section 38-2137, Reissue Revised Statutes of Nebraska, is amended to read:

38-2137 (1) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is licensed or certified pursuant to the Mental Health Practice Act or who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the mental health practitioner a serious threat of physical violence against himself, herself, or a reasonably identifiable victim or victims.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior shall arise only under the limited circumstances specified in subsection (1) of this section. The duty shall be discharged by the mental health practitioner if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.

(3) No monetary liability and no cause of action shall arise under section 38-2136 against a licensee or certificate or privilege holder for information disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

Sec. 20. Section 38-2138, Reissue Revised Statutes of Nebraska, is amended

to read:

38-2138 (1) The board shall adopt a code of ethics which is essentially in agreement with the current code of ethics of the national and state associations of the specialty professions included in mental health practice and which the board deems necessary to assure adequate protection of the public in the provision of mental health services to the public. A violation of the code of ethics shall be considered an act of unprofessional conduct.

(2) The board shall ensure through the code of ethics and the rules and regulations adopted and promulgated under the Mental Health Practice Act that persons licensed or certified pursuant to the act or holding privileges to practice in Nebraska as professional counselors under the Licensed Professional Counselors Interstate Compact limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

(3) Intentional failure by a mental health practitioner to report known acts of unprofessional conduct by a mental health practitioner to the department or the board shall be considered an act of unprofessional conduct and shall be grounds for disciplinary action under appropriate sections of the Uniform Credentialing Act unless the mental health practitioner has acquired such knowledge in a professional relationship otherwise protected by confidentiality.

Sec. 21. Section 38-2139, Reissue Revised Statutes of Nebraska, is amended to read:

38-2139 In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a credential or privilege to practice in Nebraska subject to the Mental Health Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant, ~~or~~ licensee, or privilege holder fails to disclose the information required by section 38-2123 or 38-2129 or the Licensed Professional Counselors Interstate Compact.

Sec. 22. Section 38-2516, Reissue Revised Statutes of Nebraska, is amended to read:

38-2516 (1) No person may represent himself or herself to be a licensed occupational therapist or occupational therapy assistant unless the person he or she is licensed in accordance with the Occupational Therapy Practice Act or has a compact privilege to practice in accordance with the Occupational Therapy Practice Interstate Compact.

(2) ~~Nothing in the Occupational Therapy Practice Act~~ ~~Nothing in such act~~ shall be construed to prevent:

(a) (1) Any person licensed in this state pursuant to the Uniform Credentialing Act from engaging in the profession or occupation for which he or she is licensed;

(b) (2) The activities and services of any person employed as an occupational therapist or occupational therapy assistant who serves in the armed forces of the United States or the United States Public Health Service or who is employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;

(c) (3) The activities and services of any person pursuing an accredited course of study leading to a degree or certificate in occupational therapy if such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee;

(d) (4) The activities and services of any person fulfilling the supervised fieldwork experience requirements of sections 38-2518 and 38-2519 if such activities and services constitute a part of the experience necessary to meet the requirements of such sections; or

(e) (5) Qualified members of other professions or occupations, including, but not limited to, recreation specialists or therapists, special education teachers, independent living specialists, work adjustment trainers, caseworkers, and persons pursuing courses of study leading to a degree or certification in such fields, from doing work similar to occupational therapy which is consistent with their training if they do not represent themselves by any title or description to be occupational therapists.

Sec. 23. Section 38-2894, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-2894 (1) A registration to practice as a pharmacy technician may be denied, refused renewal, removed, or suspended or have other disciplinary measures taken against it by the department, with the recommendation of the board, for failure to meet the requirements of or for violation of any of the provisions of subdivisions (1) through (18) and (20) through (26) (25) of section 38-178 and sections 38-2890 to 38-2897 or the rules and regulations adopted under such sections.

(2) If the department proposes to deny, refuse renewal of, or remove or suspend a registration, it shall send the applicant or registrant a notice setting forth the action to be taken and the reasons for the determination. The denial, refusal to renew, removal, or suspension shall become final thirty days after mailing the notice unless the applicant or registrant gives written notice to the department of his or her desire for an informal conference or for a formal hearing.

(3) Notice may be served by any method specified in section 25-505.01, or the department may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence by any of the methods specified in section 25-505.01.

(4) Pharmacy technicians may participate in the Licensee Assistance Program described in section 38-175.

Sec. 24. Section 38-3205, Reissue Revised Statutes of Nebraska, is amended to read:

38-3205 Respiratory care means the health specialty responsible for the treatment, management, diagnostic testing, ~~control~~, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. Respiratory care ~~is shall~~ not be limited to a hospital setting and includes shall include the therapeutic and diagnostic management and maintenance use of medical gases, administering apparatus, humidification and aerosols, ventilatory management assistance and ventilatory control, postural drainage, chest physiotherapy and breathing exercises, respiratory rehabilitation, cardiopulmonary resuscitation and rehabilitation, and maintenance and insertion of lines, drains, and artificial and nonartificial airways without cutting tissues of nasal or oral endotracheal tubes. Respiratory care shall also includes include the administration of all pharmacologic, diagnostic, and therapeutic agents for the treatment and diagnosis of cardiopulmonary disease for which the respiratory care practitioner has been professionally trained or has obtained advance education or certification, including specific testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research of how specific cardiopulmonary disease affects the patient aerosol and inhalant medications to the cardiorespiratory system and specific testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research. Such techniques shall include management, but not be limited to, measurement of ventilatory volumes, pressures, and flows, measurement of physiologic partial pressures, pulmonary function testing, and hemodynamic insertion of lines, and other related physiological monitoring of the cardiopulmonary system.

Sec. 25. Section 43-281, Reissue Revised Statutes of Nebraska, is amended to read:

43-281 (1) Following an adjudication of jurisdiction and prior to final disposition, the court may place the juvenile with the Office of Juvenile Services or the Department of Health and Human Services for evaluation, except that on and after October 1, 2013, no juvenile adjudicated under subdivision (1), (2), (3)(b), or (4) of section 43-247 shall be placed with the office or the department. The office or department shall arrange and pay for an appropriate evaluation if the office or department determines that there are no parental funds or private or public insurance available to pay for such evaluation, except that on and after October 1, 2013, the office and the department shall not be responsible for such evaluations of any juvenile adjudicated under subdivision (1), (2), (3)(b), or (4) of section 43-247.

(2) On and after October 1, 2013, following an adjudication of jurisdiction under subdivision (1), (2), (3)(b), or (4) of section 43-247 and prior to final disposition, the court may order an evaluation to be arranged by the Office of Probation Administration. For a juvenile in detention, the court shall order that such evaluation be completed and the juvenile returned to the court within twenty-one days after the evaluation. For a juvenile who is not in detention, the evaluation shall be completed and the juvenile returned to the court within thirty days. The physician, psychologist, licensed mental health practitioner, professional counselor holding a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact, licensed drug and alcohol counselor, or other provider responsible for completing the evaluation shall have up to ten days to complete the evaluation after receiving the referral authorizing the evaluation.

(3) A juvenile pending evaluation ordered under subsection (1) or (2) of this section shall not reside in a detention facility at the time of the evaluation or while waiting for the completed evaluation to be returned to the court unless detention of such juvenile is a matter of immediate and urgent necessity for the protection of such juvenile or the person or property of another or if it appears that such juvenile is likely to flee the jurisdiction of the court.

(4) The court shall provide copies of predisposition reports and evaluations of the juvenile to the juvenile's attorney and the county attorney or city attorney prior to any hearing in which the report or evaluation will be relied upon.

Sec. 26. Section 44-513, Reissue Revised Statutes of Nebraska, is amended to read:

44-513 Whenever any insurer provides by contract, policy, certificate, or any other means whatsoever for a service, or for the partial or total reimbursement, payment, or cost of a service, to or on behalf of any of its policyholders, group policyholders, subscribers, or group subscribers or any person or group of persons, which service may be legally performed by a person licensed in this state for the practice of osteopathic medicine and surgery, chiropractic, optometry, psychology, dentistry, podiatry, or mental health practice or by a person who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact, the person rendering such service or such policyholder, subscriber, or other person shall be entitled to such partial or total reimbursement, payment, or cost of such service, whether the service is performed by a duly licensed medical doctor or by a duly licensed osteopathic physician, chiropractor, optometrist, psychologist, dentist, podiatrist, or mental health practitioner or duly privileged professional counselor. This section shall not limit the negotiation of preferred provider policies and contracts under sections 44-4101

to 44-4113.

Sec. 27. Section 44-792, Reissue Revised Statutes of Nebraska, is amended to read:

44-792 For purposes of sections 44-791 to 44-795:

(1) Health insurance plan means (a) any group sickness and accident insurance policy, group health maintenance organization contract, or group subscriber contract delivered, issued for delivery, or renewed in this state and (b) any self-funded employee benefit plan to the extent not preempted by federal law. Health insurance plan includes any group policy, group contract, or group plan offered or administered by the state or its political subdivisions. Health insurance plan does not include group policies providing coverage for a specified disease, accident-only coverage, hospital indemnity coverage, disability income coverage, medicare supplement coverage, long-term care coverage, or other limited-benefit coverage. Health insurance plan does not include any policy, contract, or plan covering an employer group that covers fewer than fifteen employees;

(2) Mental health condition means any condition or disorder involving mental illness that falls under any of the diagnostic categories listed in the Mental Disorders Section of the International Classification of Disease;

(3) Mental health professional means (a) a practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act, (b) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact, ~~or~~ (c) a practicing mental health professional licensed or certified in this state as provided in the Mental Health Practice Act, or (d) a professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact;

(4) Rate, term, or condition means lifetime limits, annual payment limits, and inpatient or outpatient service limits. Rate, term, or condition does not include any deductibles, copayments, or coinsurance; and

(5)(a) Serious mental illness means, prior to January 1, 2002, (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder; and

(b) Serious mental illness means, on and after January 1, 2002, any mental health condition that current medical science affirms is caused by a biological disorder of the brain and that substantially limits the life activities of the person with the serious mental illness. Serious mental illness includes, but is not limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder.

Sec. 28. Section 48-101.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-101.01 (1) The Legislature finds and declares:

(a) The occupations of first responders are recognized as stressful occupations. Only our nation's combat soldiers endure more stress. Similar to military personnel, first responders face unique and uniquely dangerous risks in their sworn mission to keep the public safe. They rely on each other for survival to protect the communities they serve;

(b) On any given day, first responders can be called on to make life and death decisions, witness a young child dying with the child's grief-stricken family, make a decision that will affect a community member for the rest of such person's life, or be exposed to a myriad of communicable diseases and known carcinogens;

(c) On any given day, first responders protect high-risk individuals from themselves and protect the community from such individuals;

(d) First responders are constantly at significant risk of bodily harm or physical assault while they perform their duties;

(e) Constant, cumulative exposure to horrific events make first responders uniquely susceptible to the emotional and behavioral impacts of job-related stressors;

(f) Trauma-related injuries can become overwhelming and manifest in post-traumatic stress, which may result in substance use disorders and even, tragically, suicide; and

(g) It is imperative for society to recognize occupational injuries related to post-traumatic stress and to promptly seek diagnosis and treatment without stigma. This includes recognizing that mental injury and mental illness as a result of trauma is not disordered, but is a normal and natural human response to trauma, the negative effects of which can be ameliorated through diagnosis and effective treatment.

(2) Personal injury includes mental injuries and mental illness unaccompanied by physical injury for an employee who is a first responder, frontline state employee, or county correctional officer if such employee:

(a) Establishes that the employee's employment conditions causing the mental injury or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment; and

(b) Establishes, through a mental health professional, the medical causation between the mental injury or mental illness and the employment conditions by medical evidence.

(3) The employee bears the burden of establishing the matters described in subsection (2) of this section by a preponderance of the evidence.

(4) Until January 1, 2028, a first responder may establish prima facie

evidence of a personal injury that is a mental injury or mental illness if the first responder:

(a) Presents evidence that the first responder underwent a mental health examination by a mental health professional upon entry into such service or subsequent to such entry and before the onset of the mental injury or mental illness and such examination did not reveal the mental injury or mental illness for which the first responder seeks compensation;

(b) Presents testimony or an affidavit from a mental health professional stating the first responder suffers from a mental injury or mental illness caused by one or more events or series of events which cumulatively produced the mental injury or mental illness which brought about the need for medical attention and the interruption of employment;

(c) Presents evidence that such events or series of events arose out of and in the course of the first responder's employment; and

(d) Presents evidence that, prior to the employment conditions which caused the mental injury or mental illness, the first responder had participated in resilience training and updated the training at least annually thereafter.

(5) For purposes of this section, mental injuries and mental illness arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer and employee relations, including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations.

(6)(a) The Department of Health and Human Services shall reimburse a first responder for the cost of annual resilience training not reimbursed by the first responder's employer. The department shall pay reimbursement at a rate determined by the Critical Incident Stress Management Program under section 71-7104. Reimbursement shall be subject to the annual limit set by such program under section 71-7104.

(b) To obtain reimbursement under this subsection, a first responder shall submit an application to the Department of Health and Human Services on a form and in a manner prescribed by the department.

(7) The Department of Health and Human Services shall maintain and annually update records of first responders who have completed annual resilience training.

(8) For purposes of this section:

(a) County correctional officer means a correctional officer employed by a high-population county whose:

(i) Position obligates such employee to maintain order and custody of inmates in a county jail; and

(ii) Duties involve regular and direct interaction with high-risk individuals;

(b) Custody means:

(i) Under the charge or control of a state institution or state agency and includes time spent outside of the state institution or state agency; or

(ii) In the custody of a county jail in a high-population county or in the process of being placed in the custody of a county jail in a high-population county;

(c) First responder means a sheriff, a deputy sheriff, a police officer, an officer of the Nebraska State Patrol, a volunteer or paid firefighter, or a volunteer or paid individual licensed under a licensure classification in subdivision (1) of section 38-1217 who provides medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(d) Frontline state employee means an employee of the Department of Correctional Services or the Department of Health and Human Services whose duties involve regular and direct interaction with high-risk individuals;

(e) High-population county means a county with more than three hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;

(f) High-risk individual means an individual in custody for whom violent or physically intimidating behavior is common, including, but not limited to, a committed offender as defined in section 83-170, a patient at a regional center as defined in section 71-911, a juvenile committed to a youth rehabilitation and treatment center, and a person in the custody of a county jail in a high-population county or in the process of being placed in the custody of a county jail in a high-population county;

(g) Mental health professional means:

(i) A practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act;

(ii) A practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact; ~~or~~

(iii) A person licensed as an independent mental health practitioner under the Mental Health Practice Act; ~~or and~~

(iv) A professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact; and

(h) Resilience training means training that meets the guidelines established by the Critical Incident Stress Management Program under section

71-7104 and that teaches how to adapt to, manage, and recover from adversity, trauma, tragedy, threats, or significant sources of stress.

(9) All other provisions of the Nebraska Workers' Compensation Act apply to this section.

Sec. 29. Section 71-8402, Reissue Revised Statutes of Nebraska, is amended to read:

71-8402 For purposes of sections 71-8401 to 71-8407:

(1) Medical records means a provider's record of a patient's health history and treatment rendered;

(2) Mental health medical records means medical records or parts thereof created by or under the direction or supervision of a licensed psychiatrist, a licensed psychologist, or a mental health practitioner licensed or certified pursuant to the Mental Health Practice Act, or a professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact;

(3) Patient includes a patient or former patient;

(4) Patient request or request of a patient includes the request of a patient's guardian or other authorized representative; and

(5) Provider means a physician, psychologist, chiropractor, dentist, hospital, clinic, and any other licensed or certified health care practitioner or entity.

Sec. 30. Sections 30 to 36 of this act shall be known and may be cited as the Alzheimer's Disease and Other Dementia Support Act.

Sec. 31. The Legislature hereby finds and declares that Alzheimer's and other dementia are of significant concern to the State of Nebraska, and that the Legislature and the state would benefit from a more coordinated approach to addressing Alzheimer's disease and other dementia.

Sec. 32. For purposes of the Alzheimer's Disease and Other Dementia Support Act:

(1) Council means the Alzheimer's Disease and Other Dementia Advisory Council; and

(2) Department means the Department of Health and Human Services.

Sec. 33. (1) The Alzheimer's Disease and Other Dementia Advisory Council is created and shall include:

(a) Twelve voting members appointed by the Governor. The voting members shall consist of: (i) An individual living with Alzheimer's disease or another dementia or a family member of such an individual; (ii) an individual who is the family caregiver of an individual living with Alzheimer's disease or another dementia; (iii) an individual who represents nursing homes; (iv) an individual who represents assisted-living facilities; (v) an individual who represents providers of adult day care services; (vi) an individual who represents home care providers; (vii) a medical professional who has experience diagnosing and treating Alzheimer's disease; (viii) an individual who conducts research regarding Alzheimer's disease or other dementia; (ix) an individual who represents a leading, nationwide organization that advocates on behalf of individuals living with Alzheimer's disease or other dementia; (x) an individual who represents an area agency on aging; (xi) an individual representing an organization that advocates for older adults; and (xii) an individual with experience or expertise in the area of the specific needs of individuals with intellectual and developmental disabilities and Alzheimer's disease or other dementia; and

(b) Five nonvoting members. The nonvoting members shall consist of: (i) The Director of Public Health or the director's designee; (ii) the Director of Medicaid and Long-Term Care or the director's designee; (iii) a representative of the State Unit on Aging of the Division of Medicaid and Long-Term Care designated by the Director of Medicaid and Long-Term Care; (iv) a representative of the Nebraska Workforce Development Board designated by the board; and (v) the state long-term care ombudsman or the ombudsman's designee.

(2) The Governor shall make the appointments within ninety days after the effective date of this act. Vacancies shall be filled in the same manner as the original appointments.

(3) The voting members of the council shall serve for a term of four years. A voting member may be reappointed to one additional term of four years.

(4) Members of the council shall select the chairperson and vice-chairperson who shall not be employees of the state and may serve in such role for up to four consecutive years. The Director of Public Health or the director's designee shall call and preside over the first meeting until a chairperson is selected. Thereafter, the council shall meet at least quarterly at the call of the chairperson. A majority of the voting members shall constitute a quorum for the conduct of meetings.

(5) The council shall hold its first meeting not later than thirty days after the appointment of its members and shall hold subsequent meetings at least once every calendar quarter.

(6) Members shall serve on the council without compensation but shall be compensated for expenses incurred for such service.

(7) The department shall provide staff and support to the council as necessary to assist the council in the performance of its duties.

Sec. 34. (1) The purpose of the council shall be to examine (a) the needs of individuals living with Alzheimer's disease or other dementia, (b) the services available in the state for those individuals and their family caregivers, and (c) the ability of health care providers and facilities to meet the current and future needs of such individuals.

(2) The council shall collaborate with the department and other state

departments as needed to gather input on issues and strategies that pertain to Alzheimer's disease and other dementia and identify proactive approaches on public health, workforce, caregiver support, and care delivery. The council shall monitor analysis, policy development, and program implementation related to Alzheimer's disease and other dementia.

Sec. 35. The council shall consider and make findings and recommendations on the following topics:

(1) Trends in the state's Alzheimer's disease and other dementia populations and service needs, including:

(a) The state's role in providing or facilitating long-term care, family caregiver support, and assistance to those with early-stage or early-onset Alzheimer's disease or other dementia;

(b) The state's policies regarding individuals with Alzheimer's disease or other dementia;

(c) The fiscal impact of Alzheimer's disease and other dementia on publicly funded health care programs; and

(d) The establishment of a surveillance system to better determine the number of individuals diagnosed with Alzheimer's disease or other dementia and to monitor changes to such numbers;

(2) Existing resources, services, and capacity relating to the diagnosis and care of individuals living with Alzheimer's disease or other dementia, including:

(a) The type, cost, and availability of dementia care services;

(b) The availability of health care workers who can serve people with dementia, including, but not limited to, neurologists, geriatricians, and direct care workers;

(c) Dementia-specific training requirements for public and private employees who interact with people living with Alzheimer's disease or other dementia which shall include, but not be limited to, long-term care workers, case managers, adult protective services, law enforcement, and first responders;

(d) Home and community-based services, including respite care for individuals exhibiting symptoms of Alzheimer's disease or other dementia and their families;

(e) Quality care measures for home and community-based services and residential care facilities; and

(f) State-supported Alzheimer's disease and other dementia research conducted at universities located in this state; and

(3) Policies and strategies that address the following:

(a) Increasing public awareness of Alzheimer's disease and other dementia;

(b) Educating providers to increase early detection and diagnosis of Alzheimer's disease and other dementia;

(c) Improving the health care received by individuals diagnosed with Alzheimer's disease or other dementia;

(d) Evaluating the capacity of the health care system in meeting the growing number and needs of those with Alzheimer's disease and other dementia;

(e) Increasing the number of health care professionals necessary to treat the growing aging and Alzheimer's disease and dementia populations;

(f) Improving services provided in the home and community to delay and decrease the need for institutionalized care for individuals with Alzheimer's disease or other dementia;

(g) Improving long-term care, including assisted living, for those with Alzheimer's disease or other dementia;

(h) Assisting unpaid Alzheimer's disease or dementia caregivers;

(i) Increasing and improving research on Alzheimer's disease and other dementia;

(j) Promoting activities to maintain and improve brain health;

(k) Improving the collection of data and information related to Alzheimer's disease and other dementia and the resulting public health burdens;

(l) Improving public safety and addressing the safety-related needs of those with Alzheimer's disease or other dementia;

(m) Addressing legal protections for, and legal issues faced by, individuals with Alzheimer's disease or other dementia; and

(n) Improving the ways in which the government evaluates and adopts policies to assist individuals diagnosed with Alzheimer's disease or other dementia and their families.

Sec. 36. (1)(a) No later than eighteen months after the effective date of this act, the council shall compile the findings and recommendations under the Alzheimer's Disease and Other Dementia Support Act and submit them as a State Alzheimer's Plan to the Legislature and the Governor.

(b) Every four years thereafter, the council shall issue an updated State Alzheimer's Plan addressing the items in sections 34 and 35 of this act and any other issues the council deems necessary and relevant toward addressing Alzheimer's disease and dementia in Nebraska.

(2) By October 1 of each year after the creation of the State Alzheimer's Plan, the council shall electronically submit to the Legislature and the Governor an annual report on the status of implementation of the State Alzheimer's Plan recommendations and any barriers to implementation.

Sec. 37. Original sections 38-318, 38-2101, 38-2116, 38-2121, 38-2136, 38-2137, 38-2138, 38-2139, 38-2516, 38-3205, 43-281, 44-513, 44-792, 48-101.01, and 71-8402, Reissue Revised Statutes of Nebraska, sections 28-327, 29-2261, 38-131, 38-178, 38-2112, 38-2115, 38-2124, 38-2125, and 38-2894, Revised Statutes Cumulative Supplement, 2020, and section 38-101, Revised Statutes

Supplement, 2021, are repealed.