

## LEGISLATIVE BILL 1210

Approved by the Governor April 20, 1994

Introduced by Health and Human Services Committee: Wesely, 26, Chairperson;  
Byars, 30; Day, 19; Dierks, 40; Matzke, 47; Rasmussen, 20;  
Vrtiska, 1

AN ACT relating to public health and welfare; to amend sections 11-201, 28-407, 43-129, 43-146.03, 71-103, 71-104, 71-105, 71-106, 71-111, 71-139, 71-145, 71-149, 71-151, 71-152, 71-156, 71-157, 71-161.04, 71-161.05, 71-161.06, 71-161.10, 71-161.14, 71-161.15, 71-161.17, 71-163, 71-164, 71-166, 71-170, 71-172, 71-1,132.14, 71-1,132.16, 71-1,132.49, 71-1,208, 71-1,210, 71-1,220, 71-1,234, 71-3,173, 71-2024, 71-2049, 71-2065, 71-2074 to 71-2076, 71-5804, 71-6038, 71-6039, 71-6041, 72-1237.01, and 83-1052, Reissue Revised Statutes of Nebraska, 1943, sections 28-405, 28-409, 44-2851, 71-108, 71-147.02, 71-150, 71-154, 71-155, 71-161.02, 71-161.07, 71-161.09, 71-168, 71-171.01, 71-171.02, 71-1,103, 71-1,104, 71-1,132.29, 71-1,209, 71-507, 71-3710, 71-5101, 71-5109, 71-5113, 71-5115, 71-5119, 71-5120, 71-5124, 71-5125, 71-5130, 71-5132, 71-5134, 71-5135, 71-5137, 71-5139, 71-5140, 71-5141, 71-5145, 71-5151, 71-5155, 71-5165, 71-6801, 71-7301, 71-7304, 71-7308, 71-7317, 81-604.02, 83-1010, and 83-1040, Revised Statutes Supplement, 1992, sections 27-504, 71-101, 71-107, 71-110, 71-114, 71-116, 71-118, 71-131, 71-139.02, 71-147, 71-148, 71-162, 71-1,142, 71-1,147.34, 71-1,305, 71-1,307, 71-1,310, 71-1,311, 71-1,312, 71-1,314, 71-1,319, 71-1,320, 71-1,321, 71-1,325, 71-1,326, 71-1,328, 71-1,329, 71-1,330, 71-1,335, 71-2017.01, 71-2023, 71-2073, 71-5102, 71-5810, and 71-5831, Revised Statutes Supplement, 1993, and section 115, Legislative Bill 1223, Ninety-third Legislature, Second Session, 1994; to define and redefine terms; to change provisions relating to controlled substances; to change provisions relating to disciplinary actions involving health professionals and hospitals, references to registration of health professionals, examinations in medicine and surgery, nonrenewal of licenses, certificates, and registrations, fees for licenses to practice nursing, training and evaluation of nursing assistants, nursing home regulations, and licensing of mental health practitioners; to change and provide for penalties; to change and eliminate an operative date for the Clinical Laboratories Certification Act; to authorize the Department of Health to perform survey and certification functions; to require hospitals to make available additional information; to change provisions relating to cardiopulmonary resuscitation certification for emergency medical service providers as prescribed; to provide duties for the Division of Emergency Medical Services of the Department of Health; to provide for renewal of first responder service certification; to change, transfer, and eliminate provisions relating to the licensure of psychologists; to provide exemptions; to provide confidentiality requirements, immunity from liability, a duty to warn, and continuing education requirements; to change provisions relating to ambulatory surgical facilities and to certificate of need; to adopt the Alzheimer's Special Care Disclosure Act, the Environmental Lead Hazard Control Act, and the Emergency Box Drug Act; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections, and also sections 44-513.01, 71-1,206, 71-1,211 to 71-1,214, 71-1,218, 71-1,219, and 71-1,221 to 71-1,226, Reissue Revised Statutes of Nebraska, 1943, section 71-1,207, Revised Statutes Supplement, 1993, and Laws 1990, LB 551, section 32, as amended by Laws 1992, LB 1019, section 127, and Laws 1993, LB 536, section 124; and to declare an emergency.

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

Section 1. That section 11-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

11-201. It shall be the duty of the Risk Manager:

(1) To prescribe the amount, terms, and conditions of any bond when the amount or terms are not fixed by any specific statute. The Risk Manager, in prescribing the amount, deductibles, conditions, and terms, shall consider the type of risks to be bonded, the relationship of the bond premium to risks

involved, the past and projected trends for bond premiums, the ability of the Tort Claims Fund, the State Self-Insured Property Self-Insurance Fund, and state agencies to pay the deductibles, and any other factors the manager may, in his or her discretion, deem necessary in order to accomplish the provisions of sections 2-1201, 3-103, 8-104, 8-105, 11-119, 11-121, 11-201, 48-158, 48-609, 48-618, 48-721, 48-804.03, 53-109, 55-123, 55-126, 55-127, 55-150, 57-917, 60-1303, 60-1502, 68-703, 71-1.132.11, 71-1.210, 71-222.01, 72-1241, 80-401.02, 81-111, 81-151, 81-811, 81-8.128, 81-1108.14, 81-2002, 83-101.02, 83-128, 84-106, 84-206, and 84-801 and section 75 of this act;

(2) To pass upon the sufficiency of and approve the surety on the bonds of all officers and employees of the state, when approval is not otherwise prescribed by any specific statute;

(3) To arrange for the writing of corporate surety bonds for all the officers and employees of the state who are required by statute to furnish bonds;

(4) To arrange for the writing of the blanket corporate surety bond required by this section; and

(5) To order the payment of corporate surety bond premiums out of the State Insurance Fund created by section 81-8,239.02.

All state employees not specifically required to give bond by section 11-119 shall be bonded under a blanket corporate surety bond for faithful performance and honesty in an amount not to exceed one million dollars.

The Risk Manager may separately bond any officer, employee, or group thereof under a separate corporate surety bond for performance and honesty pursuant to the standards set forth in subdivision (1) of this section if the corporate surety will not bond or excludes from coverage any officer, employee, or group thereof under the blanket bond required by this section, or if the Risk Manager finds that the reasonable availability or cost of the blanket bond required under this section is adversely affected by any of the following factors: The loss experience, types of risks to be bonded, relationship of bond premium to risks involved, past and projected trends for bond premiums, or any other factors.

Surety bonds of public power district directors, as required by section 70-617, collection agencies, as required by section 45-608 and detective agencies, as required by section 71-3207 shall be approved by the Secretary of State. The Attorney General shall approve all bond forms distributed by the Secretary of State.

Sec. 2. That section 27-504, Revised Statutes Supplement, 1993, be amended to read as follows:

27-504. (1) As used in this rule:

(a) A patient is a person who consults or is examined or interviewed by a physician for purposes of diagnosis or treatment of his or her physical, mental, or emotional condition;

(b) A physician is (i) a person authorized to practice medicine in any state or nation or who is reasonably believed by the patient so to be or (ii) a person licensed or certified as a psychologist under the laws of any state or nation who devotes all or a part of his or her time to the practice of clinical psychology;

(c) A client is a person who consults or is interviewed by a professional counselor for professional counseling as defined in section 71-1.310;

(d) A professional counselor is a person certified as a professional counselor pursuant to sections 71-1.310, 71-1.324 to 71-1.328, and 71-1.333; and

(e) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of (i) the patient in the consultation, examination, or interview, persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician, including members of the patient's family, or (ii) the client participating in professional counseling by a professional counselor.

(2)(a) A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purposes of diagnosis or treatment of his or her physical, mental, or emotional condition among himself or herself, his or her physician, or persons who are participating in the diagnosis or treatment under the direction of the physician, including members of the patient's family.

(b) A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made during counseling between himself or herself, his or her professional counselor, or persons who are participating in the counseling under the direction of the

professional counselor, including members of the client's family.

(3) The privilege may be claimed by the patient or client, by his or her guardian or conservator, or by the personal representative of a deceased patient or client. The person who was the physician or professional counselor may claim the privilege but only on behalf of the patient or client. His or her authority so to do is presumed in the absence of evidence to the contrary.

(4)(a) There is no privilege under this rule for communications relevant to an issue in proceedings to hospitalize the patient for physical, mental, or emotional illness if the physician, in the course of diagnosis or treatment, has determined that the patient is in need of hospitalization or if a professional counselor deems it necessary to refer a client to determine if there is need for hospitalization.

(b) If the judge orders an examination of the physical, mental, or emotional condition of the patient, communications made in the course thereof are not privileged under this rule with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise.

(c) There is no privilege under this rule as to communications relevant to an issue of the physical, mental, or emotional condition of the patient in any proceeding in which he or she relies upon the condition as an element of his or her claim or defense or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of his or her claim or defense.

(d) There is no privilege under this rule in any judicial proceedings under the Nebraska Juvenile Code regarding injuries to children, incompetents, or disabled persons or in any criminal prosecution involving injury to any such person or the willful failure to report any such injuries.

(e) There is no privilege under this rule in any judicial proceeding regarding unlawfully obtaining or attempting to obtain (i) a controlled substance, (ii) a written or oral prescription for a controlled substance, or (iii) the administration of a controlled substance from a practitioner. For purposes of this subdivision, the definitions found in section 28-401 shall apply.

Sec. 3. That section 28-405, Revised Statutes Supplement, 1992, be amended to read as follows:

28-405. The following are the schedules of controlled substances referred to in this article the Uniform Controlled Substances Act:

#### Schedule I

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation: (1) Acetylmethadol; (2) allylprodine; (3) alphacetylmethadol, except levo-alpha-cetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM; (4) alphameprodine; (5) alphamethadol; (6) benzethidine; (7) betacetylmethadol; (8) betameprodine; (9) betamethadol; (10) betaprodine; (11) clonitazene; (12) dextromoramide; (13) difenoxin; (14) diampromide; (15) diethylthiambutene; (16) dimenoxadol; (17) dimepheptanol; (18) dimethylthiambutene; (19) dioxaphetyl butyrate; (20) dipipanone; (21) ethylmethylthiambutene; (22) etonitazene; (23) etoxeridine; (24) furethidine; (25) hydroxypethidine; (26) ketobemidone; (27) levomoramide; (28) levophenacymorphan; (29) morpheridine; (30) noracymethadol; (31) norlevorphanol; (32) normethadone; (33) norpipanone; (34) phenadoxone; (35) phenampromide; (36) phenomorphan; (37) phenoperidine; (38) piritramide; (39) proheptazine; (40) properidine; (41) propiram; (42) racemoramide; (43) trimeperidine; (44) alpha-methylfentanyl, N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl) propionanilide, 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine; (45) tilidine; (46) 3-Methylfentanyl, N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide, its optical and geometric isomers, salts, and salts of isomers; (47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its optical isomers, salts, and salts of isomers; (48) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (PEPAP), its optical isomers, salts, and salts of isomers; (49) N-(1-(1-methyl-2-phenyl)ethyl-4-piperidyl)-N-phenylacetamide (acetyl-alpha-methylfentanyl), its optical isomers, salts, and salts of isomers; (50) N-(1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (alpha-methylthiofentanyl), its optical isomers, salts, and salts of isomers; (51) N-(1-benxy-4-piperidyl)-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers; (52) N-(1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl)-N-phenylpropanamide (beta-hydroxyfentanyl), its optical isomers, salts, and salts of isomers; (53) N-(3-methyl-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl)-N-phenylpropanamide (beta-hydroxy-3-methylfentanyl), its optical and geometric isomers, salts, and

salts of isomers; (54) N-(3-methyl-1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (3-methylthiofentanyl), its optical and geometric isomers, salts, and salts of isomers; (55) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl), its optical isomers, salts, and salts of isomers; (56) N-(1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (thiofentanyl), its optical isomers, salts, and salts of isomers; and (57) N-(1-(2-phenylethyl)-4-piperidyl)-N-(4-fluorophenyl)-propanamide (para-fluorofentanyl), its optical isomers, salts, and salts of isomers.

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Acetorphine; (2) acetyldihydrocodeine; (3) benzylmorphine; (4) codeine methylbromide; (5) codeine-N-Oxide; (6) cyrenorphine; (7) desomorphine; (8) dihydromorphine; (9) drotebanol; (10) etorphine, except hydrochloride salt; (11) heroin; (12) hydromorphanol; (13) methyldesorphine; (14) methyl dihydromorphine; (15) morphine methylbromide; (16) morphine methylsulfonate; (17) morphine-N-Oxide; (18) myrophine; (19) nicocodeine; (20) nicomorphine; (21) normorphine; (22) pholcodine; and (23) thebacon.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and, for purposes of this subdivision only, isomer shall include the optical, position, and geometric isomers: (1) Bufotenine. Trade and other names shall include, but are not limited to: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; and mappine; (2) diethyltryptamine. Trade and other names shall include, but are not limited to: N, N-diethyltryptamine; and DET; (3) dimethyltryptamine. Trade and other names shall include, but are not limited to: DMT; (4) 4-bromo-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; and 4-bromo-2, 5-DMA; (5) 4-methoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methoxy-a-methyl-phenethylamine; and paramethoxyamphetamine, PMA; (6) 4-methyl-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; DOM; and STP; (7) 5-methoxy-N-N, N-dimethyltryptamine; (8) ibogaine. Trade and other names shall include, but are not limited to: 7-ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6, 9-methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; and tabernanthe iboga; (9) lysergic acid diethylamide; (10) marijuana; (11) mescaline; (12) peyote. Peyote shall mean all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant or its seeds or extracts; (13) psilocybin; (14) psilocyn; (15) tetrahydrocannabinols, including, but not limited to, synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the Food and Drug Administration; Delta 6 cis or trans tetrahydrocannabinol and their optical isomers; and Delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers. Since nomenclature of these substances is not internationally standardized, compounds of these structures shall be included regardless of the numerical designation of atomic positions covered; (16) 3,4-methylenedioxy amphetamine; (17) 5-methoxy-3, 4-methylenedioxy amphetamine; (18) 3,4,5-trimethoxy amphetamine; (19) N-ethyl-3-piperidyl benzilate; (20) N-methyl-3-peperidyl benzilate; (21) thiophene analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienyl analog of phencyclidine; TCPF; and TCP; (22) 2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 2,5-dimethoxy-a-methylphenethylamine; and 2,5-DMA; (23) hashish or concentrated cannabis; (24) Parahexyl. Trade and other names shall include, but are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6, 9-trimethyl-6H-dibenzo(b,d)pyran; and synhexyl; (25) Ethylamine analog of phencyclidine. Trade and other names shall include, but are not limited to: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE; (26) Pyrrolidine analog of phencyclidine. Trade and

other names shall include, but are not limited to: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP; and (27) 3,4-methylenedioxyamphetamine (MDMA), its optical, positional, and geometric isomers, salts, and salts of isomers.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Meclqualone; and (2) methaqualone.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: (1) Fenethylamine; and (2) N-ethylamphetamine.

#### Schedule II

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, buprenorphine, nalbuphine, nalmefene, naloxone, and naltrexone and their salts, but including the following: (i) Raw opium; (ii) opium extracts; (iii) opium fluid extracts; (iv) powdered opium; (v) granulated opium; (vi) tincture of opium; (vii) codeine; (viii) ethylmorphine; (ix) etorphine hydrochloride; (x) hydrocodone; (xi) hydromorphone; (xii) metopon; (xiii) morphine; (xiv) oxycodone; (xv) oxymorphone; and (xvi) thebaine;

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivision (1) of this subdivision, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, including cocaine and its salts, optical isomers, and salts of optical isomers, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecgonine; and

(5) Concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(b) Unless specifically excepted or unless in another schedule any of the following opiates, including their isomers, esters, ethers, salts, and salts of their isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted: (1) Alphaprodine; (2) anileridine; (3) bezitramide; (4) diphenoxylate; (5) fentanyl; (6) isomethadone; (7) levomethorphan; (8) levorphanol; (9) metazocine; (10) methadone; (11) methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane; (12) moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; (13) pethidine or meperidine; (14) pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine; (15) pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; (16) pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; (17) phenazocine; (18) piminodine; (19) racemethorphan; (20) racemorphan; (21) dihydrocodeine; (22) bulk dextropropoxyphene in nondosage forms; (23) sufentanil; and (24) alfentanil; and (25) levo-alphaacetyl-methadol.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system: (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers; (2) phenmetrazine and its salts; (3) methamphetamine, its salts, isomers, and salts of its isomers; and (4) methylphenidate.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designations: (1) Amobarbital; (2) secobarbital; (3) pentobarbital; and (4) phenacyclidine; and (5) glutethimide.

(e) Hallucinogenic substances known as: (1) Dronabinol ~~dronabinol~~,

synthetic, in sesame oil and encapsulated in a soft gelatin capsule in a Food and Drug Administration approved drug product. Some other names for dronabinol are (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo(b,d)pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol; and (2) nabilone. Another name for nabilone is (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one.

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances: (1) Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Trade and other names shall include, but are not limited to: Phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone; or (2) immediate precursors to phencyclidine, PCP: (1) 1-phenylcyclohexylamine; or (ii) 1-piperidinocyclohexanecarbonitrile, PCC.

Schedule III

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Benzphetamine; (2) chlorphentermine; (3) chlortermine; and (4) phendimetrazine.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: (1) Any substance which contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules of this section; (2) chlorhexadol; (3) ~~glutethimide~~; ~~(4)~~ lysergic acid; ~~(5)~~ (4) lysergic acid amide; ~~(6)~~ (5) methyprylon; ~~(7)~~ (6) sulfondiethylmethane; ~~(8)~~ (7) sulfonethylmethane; ~~(9)~~ (8) sulfonmethane; ~~(10)~~ (9) nalorphine; ~~(11)~~ (10) any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule; ~~(12)~~ (11) any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository; and ~~(13)~~ (12) tiletamine and zolazepam or any salt thereof. Trade or other names for a tiletamine-zolazepam combination product shall include, but not be limited to: telazol. Trade or other names for tiletamine shall include, but not be limited to: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names for zolazepam shall include, but not be limited to: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-diazepin-7(1H)-one, and flupyzapone.

(c) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than one and eight-tenths grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in

recognized therapeutic amounts; and

(8) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(d) Any anabolic steroid, which shall include any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation: (1) Boldenone; (2) chlorotestosterone (4-chlorotestosterone); (3) clostebol; (4) dehydrochloromethyltestosterone; (5) dihydrotestosterone (4-dihydrotestosterone); (6) drostanolone; (7) ethylestrenol; (8) fluoxymesterone; (9) formebolone (formebolone); (10) mesterolone; (11) methandienone; (12) methandranone; (13) methandriol; (14) methandrostenolone; (15) methenolone; (16) methyltestosterone; (17) mibolerone; (18) nandrolone; (19) norethandrolone; (20) oxandrolone; (21) oxymesterone; (22) oxymetholone; (23) stanolone; (24) stanozolol; (25) testolactone; (26) testosterone; (27) trenbolone; and (28) any salt, ester, or isomer of a drug or substance described or listed in this subdivision if the salt, ester, or isomer promotes muscle growth.

#### Schedule IV

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Barbitol; (2) chloral betaine; (3) chloral hydrate; (4) chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clindinium bromide) or menium (chlordiazepoxide and water soluble esterified estrogens); (5) clonazepam; (6) clorazepate; (7) diazepam; (8) ethchlorvynol; (9) ethinamate; (10) flurazepam; (11) mebumatate; (12) meprobamate; (13) methohexital; (14) methylphenobarbital; (15) oxazepam; (16) paraldehyde; (17) petrichloral; (18) phenobarbital; (19) prazepam; (20) alprazolam; (21) bromazepam; (22) camazepam; (23) clobazam; (24) clotiazepam; (25) cloxazolam; (26) delorazepam; (27) estazolam; (28) ethyl loflazepate; (29) fludiazepam; (30) flunitrazepam; (31) halazepam; (32) haloxazolam; (33) ketazolam; (34) loprazolam; (35) lorazepam; (36) lormetazepam; (37) medazepam; (38) nimetazepam; (39) nitrazepam; (40) nordiazepam; (41) oxazolam; (42) pinazepam; (43) temazepam; (44) tetrazepam; (45) triazolam; (46) midazolam; and (47) quazepam; and (48) zolpidem.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, whether optical, position, or geometric, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Diethylpropion; (2) phentermine; (3) pemoline, including organometallic complexes and chelates thereof; (4) mazindol; (5) pipradrol; and (6) SPA, ((-)-1-dimethylamino-1,2-diphenylethane); (7) cathine. Another name for cathine is ((+)-norpseudoephedrine); (8) fencamfamin; (9) fenproporex; and (10) mefenorex.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below: (1) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propyloxybutane); and (2) not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts: Pentazocine.

#### Schedule V

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drug and its salts: (1) Buprenorphine.

(b) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts calculated as the free anhydrous base or alkaloid, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound,

mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

(2) Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

(3) Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(4) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(5) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams; and

(6) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

Sec. 4. That section 28-407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-407. (1) Every person who manufactures, prescribes, distributes, administers, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, prescribing, administering, distribution, or dispensing of any controlled substance within this state, shall obtain annually a registration issued by the Bureau of Examining Boards in accordance with the rules and regulations adopted and promulgated by the department.

(2) The following persons shall not be required to register and may lawfully possess controlled substances under the provisions of this article the Uniform Controlled Substances Act:

(a) An agent, or an employee thereof, of any practitioner, registered manufacturer, distributor, or dispenser of any controlled substance if such agent is acting in the usual course of his or her business or employment;

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his or her business or employment; and

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner.

(3) A separate registration shall be required at each principal place of business of professional practice where the applicant manufactures, distributes, or dispenses controlled substances, except that no registration shall be required in connection with the placement of an emergency box within an institution pursuant to the provisions of the Emergency Box Drug Act.

(4) The Bureau of Examining Boards is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by the department.

Sec. 5. That section 28-409, Revised Statutes Supplement, 1992, be amended to read as follows:

28-409. (1) A registration pursuant to section 28-408 to prescribe, administer, manufacture, distribute, or dispense a controlled substance may be suspended, revoked, or renewal refused by the department upon a finding that the registrant:

(a) Has falsified any application filed pursuant to the Uniform Controlled Substances Act or required by the act;

(b) Has been convicted of a felony subsequent to being granted a registration pursuant to section 28-408 under any law of the United States or of any state or has been convicted of a violation relating to any substances defined in the act as a controlled substance subsequent to being granted a registration pursuant to section 28-408 under any law of the United States or of any state;

(c) Has had his or her federal registration suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled substances;

(d) Is guilty of any of the acts or offenses listed in section 71-147 for which disciplinary measures may be taken against his or her license, certificate, or registration to practice and which have a rational connection with his or her fitness to prescribe, administer, or dispense a controlled substance. The department may automatically revoke or suspend the registration of a practitioner who has had his or her license, certificate, or registration to practice revoked or suspended and is no longer authorized to prescribe, administer, or dispense under the laws of this state or who has had his or her license, certificate, or registration to practice limited or restricted and is no longer authorized to prescribe, administer, or dispense controlled substances under the laws of this state; or



(e) Is habitually intoxicated or is dependent upon or actively addicted to alcohol or any controlled substance or narcotic drug; or  
 (f) Has violated the Uniform Controlled Substances Act or any rules or regulations adopted pursuant to the act.

(2) The department may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(3) A person whose registration has been denied, revoked, or suspended shall be afforded an opportunity for a hearing in accordance with the Administrative Procedure Act. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under the provisions of the Uniform Controlled Substances Act or any law of the state, except that such proceedings may be consolidated with proceedings under section 71-155 or ~~71-161~~ sections 71-161.12 to 71-161.18. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing, except in cases when the department finds that there is an imminent danger to the public health or safety.

(4) The department may suspend any registration simultaneously with the institution of proceedings under this section or when renewal of registration is refused in cases when the department finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the department or dissolved by a court of competent jurisdiction.

(5) In the event the department suspends or revokes a registration granted under section 28-408, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the department be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances may be forfeited to the state.

(6) The administration shall be promptly notified of all orders limiting, suspending, or revoking registration.

Sec. 6. That section 43-129, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-129. If at any time an individual licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14 or ~~certified as qualified to practice clinical licensed to engage in the practice of~~ psychology pursuant to sections ~~71-1,222 to 71-1,226 63 to 93 of this act~~, through his or her professional relationship with an adopted person, determines that information contained on the original birth certificate of the adopted person may be necessary for the treatment of the health of the adopted person, whether physical or mental in nature, he or she may petition a court of competent jurisdiction for the release of the information contained on the original birth certificate, and the court may release the information on good cause shown.

Sec. 7. That section 43-146.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-146.03. If at any time an individual licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14 or ~~certified as qualified to practice clinical licensed to engage in the practice of~~ psychology pursuant to sections ~~71-1,222 to 71-1,226 63 to 93 of this act~~, through his or her professional relationship with an adopted person, determines that information contained on the original birth certificate of the adopted person may be necessary for the treatment of the health of the adopted person, whether physical or mental in nature, he or she may petition a court of competent jurisdiction for the release of the information contained on the original birth certificate, and the court may release the information on good cause shown.

Sec. 8. That section 44-2851, Revised Statutes Supplement, 1992, be amended to read as follows:

44-2851. (1) Complaints to the Commission on Medical Qualifications shall be in writing directed to the commission. The commission shall formulate a complaint form for the use of persons making complaints, but no specified form of complaint shall be required.

(2) The Department of Health or any citizen of the State of Nebraska shall have the right at all times to make or refer complaints to the commission with reference to the acts, activities, or qualifications of any

physician or surgeon licensed to practice in the State of Nebraska or to request that the commission consider the qualifications of any physician or surgeon to continue to practice.

(3) Upon receipt of any such complaint or request, the commission shall make such investigation as it determines to be necessary to take such action to resolve the matter. The commission shall notify the person making the complaint as to the disposition of the complaint as soon as the commission has determined what actions will be taken pursuant to such complaint.

(4) The commission shall have the right (a) to subpoena witnesses, (b) to hold preliminary hearings, (c) to require the physician or surgeon under investigation to submit to or to request that he or she undergo a physical or mental examination by medical experts in accordance with sections 71-161.13 to 71-161.19 71-161.12 to 71-161.18. (d) to appoint special masters to conduct preliminary hearings, (e) to make independent investigations by means of investigators employed by the commission, (f) to hold confidential preliminary conferences with the person or persons filing the complaint or with their agents or attorneys, and (g) to hold confidential preliminary conferences with the physician or surgeon involved in the complaint.

(5) If the commission determines that the complaint has sufficient merit to justify further action, the commission shall refer the matter to the Board of Examiners in Medicine and Surgery for review pursuant to sections 71-161.12 to 71-161.18 or as provided in section 71-168.01. The referral shall include- (a) ~~Specific~~ specific violations of statute, rule, regulation, or any combination thereof that the commission finds substantiated based upon the investigation; and (b) the disposition or possible disposition the commission believes appropriate under the circumstances.

Sec. 9. That section 71-101, Revised Statutes Supplement, 1993, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1301 to 71-1306, 71-1326 to 71-1354, and 71-2801 to 71-2822 and sections 63 to 93 of this act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board of examiners or board shall mean one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed under the Uniform Licensing Law;

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

(4) Department shall mean the Department of Health;

(5) Whenever a particular gender is used, it shall be construed to include both the masculine and the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

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

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so.

Sec. 10. That section 71-103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-103. No person shall be licensed, ~~or~~ certified, or registered to practice a profession under the Uniform Licensing Law until he or she ~~shall~~ have furnished satisfactory evidence to the department that he or she has attained the age of majority and is of good moral character.

Sec. 11. That section 71-104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-104. The Department of Health may refuse to grant a license, ~~or~~

certificate, or registration to practice a profession to any person, otherwise qualified, upon any of the grounds for which a license, or certificate, or registration may be revoked under the provisions hereinafter contained of the Uniform Licensing Law.

Sec. 12. That section 71-105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-105. Every license, certificate, or registration to practice a profession shall be in the form of a certificate document under the name and seal of the Department of Health, and signed by the Director of Health and the Governor. It shall also be countersigned by the members of the board of examiners which gives the examination for the particular profession, except ~~PROVIDED, HOWEVER,~~ that all licenses, certificates, and registrations granted without examination may be issued by the department under its name and seal, and signed by its director and the Governor. A copy of all licenses, certificates, and registrations shall be retained in the department, and given the same number as has been assigned to the licensee, certificate holder, or registrant in the other records of the department.

Sec. 13. That section 71-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-106. Every license, or certificate, or registration issued under the Uniform Licensing Law shall be presumptive evidence of the right of the holder to practice in this state the profession specified therein.

Sec. 14. That section 71-107, Revised Statutes Supplement, 1993, be amended to read as follows:

71-107. Every person licensed, or certified, or registered under the Uniform Licensing Law to practice a profession shall keep such license, or certificate, or registration displayed in the office or place in which he or she practices and place and keep placed, in a conspicuous place at each entrance thereto, a sign, in intelligible lettering not less than one inch in height, containing the name of such person immediately followed by the recognized abbreviation indicating the professional degree, if any, held by such person.

In addition to the foregoing, those persons licensed or certified to practice osteopathic medicine, chiropractic, podiatry, optometry, audiology, speech-language pathology, dietetic and nutrition services, professional counseling, social work, marriage and family therapy, mental health practice, massage therapy, or physical therapy shall cause to be placed upon such signs, in lettering of equal height, the word Osteopathic Physician, Chiropractor, Podiatrist, Optometrist, Audiologist, Speech-Language Pathologist, Nutritionist, Professional Counselor, Social Worker, Master Social Worker, Marriage and Family Therapist, Mental Health Practitioner, Massage Therapist, or Physical Therapist, as the case may be. The same wording shall be used in all signs, announcements, stationery, and advertisements of such licensees and certificate holders, except as provided in section 71-1,367.

Sec. 15. That section 71-108, Revised Statutes Supplement, 1992, be amended to read as follows:

71-108. The name, date and place of birth, location or post office address, school and date of graduation, date of examination and ratings or grades received, and date of a license, or certificate, or registration if one is issued of all applicants for examination in the several professions regulated by the Uniform Licensing Law shall be entered in a book kept in the office of the department to be known as the registry record. A separate registry record shall be kept for each profession, the names of applicants in that profession shall be given consecutive numbers, and all other records relating to that application or the license, or certificate, or registration granted pursuant to that application shall be given the same number. A list shall also be kept of those granted licenses, or certificates, or registrations in the several professions. Applications for a license, or certificate, or registration shall be upon forms prepared by the department, and the completed applications shall be kept as a part of the permanent files of the department. All applications based on licenses, or certificates, or registrations granted in other states shall be received upon forms prepared by the department and entered in the registry records as nearly as may be in the same form as are those applying for examinations. In addition, the date of license, or certificate, or registration and the length of time of practice in the other state shall be given and entered. The data in any or all of such records may be maintained in computer files, placed upon microfilm, or stored in a similar form. All such records, in whatever form, shall be available for public inspection, as defined by rules and regulations of the department. Investigational records, reports, and files pertaining to an application shall not be a public record until action is taken to grant or deny the application and may be withheld from disclosure thereafter under section 84-712.05.

Sec. 16. That section 71-110, Revised Statutes Supplement, 1993, be amended to read as follows:

71-110. (1) The different licenses, or certificates, or registrations to practice a profession shall be renewed biennially, except as provided in sections 71-1,228 and 71-1,294, upon request of the licensee, or certificate holder, or registrant, without examination. The biennial license, or certificate, or registration renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the board, shall establish by rule and regulation. The biennial expiration date in the different professions shall be as follows:

- (a) January, pharmacy and psychology;
- (b) February, funeral directing and embalming;
- (c) March, dentistry and dental hygiene;
- (d) April, podiatry and veterinary medicine and surgery;
- (e) May, athletic training;
- (f) June, respiratory care;
- (g) August, chiropractic and optometry;
- (h) September, dietetics and nutrition, mental health practice including any associated certification, and osteopathic medicine;
- (i) October, medicine and surgery;
- (j) November, massage therapy and physical therapy; and
- (k) December, audiology and speech-language pathology.

The request for renewal need not be in any particular form and shall be accompanied by the legal fee. Such fee shall be paid not later than the date of the expiration of such license, or certificate, or registration, except that while actively engaged in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, persons licensed, or certified, or registered to practice the professions listed in this subsection shall not be required to pay the renewal license or certificate fee.

(2) When an individual licensed, or certified, or registered pursuant to the Uniform Licensing Law desires to have his or her license, or certificate, or registration lapse upon expiration, he or she shall notify the department of such desire in writing. The department shall notify the licensee, or certificate holder, or registrant in writing of the acceptance or denial of the request to allow the license, or certificate, or registration to lapse. When the lapsed status becomes effective, the right to represent himself or herself as a licensee, or certificate holder, or registrant and to practice the profession in which such license is required shall terminate. To restore the license, or certificate, or registration, such individual shall be required to meet the requirements for licensure, or certification, or registration which are in effect at the time that he or she wishes to restore the license, or certificate, or registration.

(3) When an individual licensed, or certified, or registered pursuant to the Uniform Licensing Law desires to have his or her license, or certificate, or registration placed on inactive status upon its expiration, he or she shall notify the department of such desire in writing and pay a fee of thirty-five dollars. The department shall notify the licensee, or certificate holder, or registrant in writing of the acceptance or denial of the request to allow the license, or certificate, or registration to be placed on inactive status. When the license, or certificate, or registration is placed on inactive status, the licensee, or certificate holder, or registrant shall not engage in the practice of such profession. A license, or certificate, or registration may remain on inactive status for an indefinite period of time. In order to move a license, or certificate, or registration from inactive to active status, an individual shall complete the continuing education requirements in effect at the time he or she wishes to regain active status and pay the renewal fee then due.

(4) At least thirty days before the expiration of a license, or certificate, or registration, the department shall notify each licensee, or certificate holder, or registrant by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any licensee, or certificate holder, or registrant who fails to notify the department of his or her desire to let his or her license, or certificate, or registration lapse or be placed on inactive status upon its expiration or who fails to pay the renewal fee on or before the date of expiration of his or her license, or certificate, or registration shall be given a second notice in the same manner as the first notice advising him or her (a) of the failure to pay, (b) that the license, or certificate, or registration has expired, (c) that the department will suspend action for thirty days following the date of expiration, (d) that upon the receipt of the renewal fee, together with an additional fee of twenty-five dollars, within that time, no order of

revocation will be entered, and (e) that upon the failure to receive the amount then due and twenty-five dollars in addition to the regular renewal fee, the license, or certificate, or registration will be revoked in the manner prescribed in section 71-149.

(5) Any licensee, or certificate holder, or registrant who fails to renew his or her license, or certificate, or registration may be reinstated upon the recommendation of the board of examiners for his or her profession and the payment of the renewal fee and any additional fees if an application for reinstatement is made within one year of revocation.

(6) Any licensee, or certificate holder, or registrant who applies for reinstatement more than one year after revocation shall pay the renewal and any additional fees for the intervening time period between revocation and reinstatement and petition the board of examiners to recommend reinstatement as prescribed in section 71-161.05.

Sec. 17. That section 71-111, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-111. For the purpose of giving examinations to applicants for license to practice the professions for which a license is required by the Uniform Licensing Law or for the purpose of certification or registration, the State Board of Health shall appoint a board of examiners for each of the professions under the Uniform Licensing Law except osteopathic medicine and surgery.

Sec. 18. That section 71-114, Revised Statutes Supplement, 1993, be amended to read as follows:

71-114. (1) Except as provided in subsections (4), (6), and (7) of this section, every professional member of a board of examiners shall be and have been actively engaged in the practice of his or her profession in the State of Nebraska, under a license, or certificate, or registration issued in this state, for a period of five years just preceding his or her appointment, except for the members of boards of examiners for professions coming within the scope of the Uniform Licensing Law for the first time and for a period of five years thereafter. Members appointed during such period shall be required to meet the minimum qualifications for licensure, certification, or registration in the profession in this state and shall, insofar as possible, meet the requirements as to years of practice in this state otherwise provided by this section.

(2) A layperson member of a board of examiners shall be of the age of majority and shall have been a resident of the State of Nebraska for at least five years immediately prior to appointment to the board. Such a layperson member shall be a representative of consumer viewpoints.

(3) Each member of the Board of Examiners in Audiology and Speech-Language Pathology shall have been a resident of the State of Nebraska for at least one year immediately prior to appointment and shall also have been engaged in rendering services to the public in audiology or speech-language pathology for at least three years immediately prior to appointment.

(4) The requirement of five years of experience shall apply to members of the Board of Examiners of Psychologists, except that up to two of the five years may have been served in teaching or research.

(5) All professional members of boards of examiners appointed to an initial board shall be licensed, certified, or registered within six months after being appointed to the board or within six months after the date by which members of the profession are required to be licensed, certified, or registered, whichever is later. If for any reason a professional member is not licensed, certified, or registered within such time period, a new professional member shall be appointed.

(6) Each professional member of a board of examiners first appointed to the Boards of Examiners in Athletic Training, Mental Health Practice, Respiratory Care Practice, and Dietetics and Nutrition, respectively, shall be a person who is and has been actively engaged in the practice of athletic training, mental health practice, respiratory care, or dietetic and nutrition services, respectively, for at least two years immediately preceding his or her appointment to the board and shall be licensed, certified, or registered, as appropriate, within six months after being appointed or within six months after members of the profession are required to be licensed, certified, or registered, whichever is later. If for any reason a professional member cannot be licensed, certified, or registered, as appropriate, within such time period, a new professional member shall be appointed.

(7) The members initially appointed to the Board of Examiners in Mental Health Practice to fill the positions designated for certified master social workers shall be certified master social workers serving on the Board of Examiners in Social Work and to fill the positions designated for certified

professional counselors shall be certified professional counselors serving on the Board of Examiners in Professional Counseling as such boards existed immediately prior to September 1, 1994.

Sec. 19. That section 71-116, Revised Statutes Supplement, 1993, be amended to read as follows:

71-116. (1) The members of each board of examiners shall be residents of the State of Nebraska and shall be appointed for terms of five years. No member shall be appointed for or serve for more than two consecutive full five-year terms.

(2) The members of the Board of Examiners in Dentistry shall be appointed as follows: As of December 1, 1971, one member shall be appointed for a term of five years and one member shall be appointed for a term of three years; as of December 1, 1972, one member shall be appointed for a term of three years; as of December 1, 1973, one member shall be appointed for a term of three years; as of December 1 of each year thereafter, two members shall be appointed for terms of five years; as of December 1, 1979, one member who is a duly licensed dental hygienist and complies with section 71-114 shall be appointed for a term of five years; and as of December 1, 1984, one layperson member shall be appointed for a term of five years. Thereafter successors with like qualifications shall be appointed for five-year terms.

(3) The members of the Board of Examiners in Medicine and Surgery shall be appointed as follows: Within thirty days after May 25, 1943, five members shall be appointed, one of whom shall hold office until December 1, 1944, one until December 1, 1945, one until December 1, 1946, one until December 1, 1947, and one until December 1, 1948; upon the expiration of such terms, successors shall be appointed for terms of five years each. Within thirty days after October 19, 1963, a sixth member, who shall be a person eligible for appointment to the Board of Examiners in Osteopathy who also has a license to practice medicine and surgery in the State of Nebraska, shall be appointed for a term expiring on December 1, 1968. As of December 1, 1984, one layperson member shall be appointed for a term of five years. Thereafter successors with like qualifications shall be appointed for five-year terms. Upon the expiration of the five-year term of such sixth member of the board after April 19, 1986, his or her eligible successor shall be a person who has a license to practice osteopathic medicine or osteopathic medicine and surgery in the State of Nebraska.

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

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

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

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

(8) The initial members of the Board of Examiners in Mental Health Practice appointed from the Board of Examiners in Social Work and the Board of Examiners in Professional Counseling, as such boards existed immediately prior to September 1, 1994, shall serve until the expiration of the terms they would have served on their respective boards. One initial layperson member and one initial marriage and family therapist shall hold office until December 1 of the fourth year following September 1, 1994, and one initial layperson member and one initial marriage and family therapist shall hold office until December

1 of the fifth year following September 1, 1994.

(9) The term of each member provided for in this section shall commence on the first day of December following the expiration of the term of the member whom such person succeeds and shall be rotated in such a manner that no more than one examiner shall retire during any year in which a term expires unless the number of members on a board makes it impractical to do so.

(10) Except as otherwise specifically provided, the members of boards for professions coming under the scope of the Uniform Licensing Law for the first time shall be appointed within thirty days after the effective or operative date, whichever is later, of the act providing for licensing, or certification, or registration of the profession, the terms of the initial board members to be as follows: One member shall hold office until December 1 of the third year, one until December 1 of the fourth year, and two, including the layperson member, until December 1 of the fifth year following the year in which the act providing for licensing, or certification, or registration of the profession became effective.

Sec. 20. That section 71-118, Revised Statutes Supplement, 1993, be amended to read as follows:

71-118. The State Board of Health shall have power to remove from office at any time any member of a board of examiners, after a public hearing pursuant to the provisions of the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional license, or certificate, or registration in the profession involved may be suspended or revoked under section 71-147 or 71-148, or for a lack of licensure, or certification, or registration in the profession involved.

Sec. 21. That section 71-131, Revised Statutes Supplement, 1993, be amended to read as follows:

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

(a) The department may, upon the recommendation of the appropriate board of examiners, adopt and promulgate rules and regulations to specify the passing grade on licensure or certification examinations. In the absence of such rules and regulations, an examinee shall be required to obtain an average grade of seventy-five and shall be required to obtain a grade of sixty in each subject examined;

(b) A person who desires to take a licensure or certification examination but does not wish to receive a license or certification may take such examination by meeting the examination eligibility requirements and paying the cost of the examination and an administrative fee of twenty-five dollars; and

(c) An examinee who fails a licensure or certification examination may retake the entire examination or the part failed upon payment of the licensure or certification fee each time he or she is examined. The department shall withhold from the licensure or certification fee the cost of any national examination used and the administrative fee authorized in section 71-163 when an examinee fails a licensure or certification examination and shall return to the examinee the remainder of the licensure or certification fee collected, except that:

(i) If the state-developed jurisprudence portion of the licensure or certification examination was failed, the examinee may retake that portion without charge; and

(ii) If any component of a national examination was failed, the examinee shall be charged the cost for purchasing such examination.

(2) In pharmacy, all applicants shall be required to attain a grade to be determined by the Board of Examiners in Pharmacy in an examination in pharmacy and a grade of seventy-five in an examination in jurisprudence of pharmacy.

(3) In social work, the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Social Work until September 1, 1994, and commencing September 1, 1994, by the Board of Examiners in Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all the requirements for certification without examination pursuant to section 71-1,260 until September 1, 1994, and commencing September 1, 1994, pursuant to section 71-1,319 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(4) In professional counseling, the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Professional Counseling until September 1, 1994, and commencing September

1. 1994, by the Board of Examiners in Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(5) ~~In~~ Commencing September 1, 1994, in marriage and family therapy, the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to section 71-1,329 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(6) In medicine and surgery, applicants taking the examination for the first time for licensure in this state in medicine and surgery or osteopathic medicine and surgery shall take the entire examination in one administration period. No applicant may retake any separate component of or the entire examination for licensure more than three times without first providing documentation of successful completion of one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. No more than seven years shall lapse between initial examination of an applicant and successful completion by an applicant of all components of the examination for licensure in medicine and surgery or osteopathic medicine and surgery. A passing grade or score for a component shall become invalid at the end of a period of seven years. Applicants for licensure in medicine and surgery and osteopathic medicine and surgery shall pass the licensing examination. An applicant who fails to pass any part of the licensing examination within four attempts shall complete one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. All parts of the licensing examination must be successfully completed within seven years. An applicant who fails to successfully complete the licensing examination within seven years shall retake that part of the examination which is more than seven years old.

(7) In dietetic and nutrition services, the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Dietetics and Nutrition by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to section 71-1,291 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

Sec. 22. That section 71-139, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-139. The department may, without examination, except when a practical examination is required, issue a license to practice any profession, except pharmacy, podiatry, dentistry, medicine and surgery, optometry, osteopathic medicine and surgery or as an osteopathic physician, and audiology and speech-language pathology, to a person who has been in the active practice of that profession in some other state or territory or the District of Columbia upon the certificate of the proper licensing authority of the state, territory, or District of Columbia certifying that the applicant is duly licensed, that his or her license has never been suspended or revoked, and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement.

The applicant shall also present proof of the following things:

(1) That the state, territory, or District of Columbia from which the applicant comes shall have and maintain standards regulating his or her profession equal to those maintained in that profession by Nebraska;

(2) ~~that That~~ his or her license there was based upon a written examination and the grades given at such examination;

(3) ~~the The~~ the date of his or her license;

(4) ~~that That~~ such licensee has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity;

(5) ~~the The~~ the affidavit of at least two practitioners in that state or territory or the District of Columbia testifying to the applicant being of good moral character and standing in his or her profession; and

(6) ~~that That~~ the applicant has been in the active and continuous practice under license by examination in the state, territory, or District of Columbia from which he or she comes for at least one year.

An applicant for reciprocal registration coming from any state may be licensed by reciprocity if his or her individual qualifications meet the Nebraska legal requirements.



The department may issue certificates or registrations on a reciprocal basis to persons who are required to be certified or registered pursuant to the Uniform Licensing Law. The department may adopt and promulgate rules and regulations for reciprocity pursuant to this section.

Persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Examiners in Osteopathy since January 1, 1963, and prior to May 23, 1981, and after May 23, 1981, persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Examiners in Medicine and Surgery who meet the requirements of this section and who have passed a written examination which is equivalent to that required in section 71-1,104 as determined by the Board of Examiners in Medicine and Surgery and who meet the requirements of section 71-1,137 for the practice of osteopathic medicine and surgery as evidenced by a certificate of the Board of Examiners in Medicine and Surgery may be granted a license to practice osteopathic medicine and surgery as defined in section 71-1,137 if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity. Graduates of an accredited school or college of osteopathic medicine since January 1, 1963, who meet the requirements of this section and who meet the applicable requirements of section 71-1,139.01 as certified by the Board of Examiners in Medicine and Surgery may be granted a special license as doctor of osteopathic medicine and surgery.

The department may approve without examination any person who has been duly licensed to practice optometry in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the Board of Examiners in Optometry shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice optometry if such person has been actively engaged in the practice under such license for at least one of the three years immediately preceding the application for license by reciprocity. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training. The applicant shall submit a certificate of the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession certifying that he or she is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned he or she is entitled to its endorsement. If the applicant is found to meet the requirements provided in this section and is qualified to be licensed to practice the profession of optometry in the State of Nebraska, the board shall issue a license to practice optometry in the State of Nebraska to such applicant.

The Board of Examiners in Dentistry may approve any person who has been duly licensed to practice dentistry or dental hygiene in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the board shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice dentistry or dental hygiene if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least three years, one of which must be within the three years immediately preceding the application for license by reciprocity. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training and is possessed of good character and morals as required by the laws of the State of Nebraska. The applicant shall submit a certificate of the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession certifying that he or she is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned he or she is entitled to its endorsement. The applicant shall submit evidence of completion during the twelve-month period preceding the application of continuing education requirements comparable to the requirements of this state. The board of examiners may administer an oral examination to all applicants for licensure by reciprocity to assess their knowledge of basic clinical aspects of dentistry or dental hygiene. If the applicant is found by the board to meet the requirements provided in this section, the board shall certify such fact to the department, and the department upon receipt of such certification shall issue a license to practice dentistry or dental hygiene in the State of Nebraska to such applicant. If the board finds that the applicant does not satisfy the requirements of this section, the board shall certify its findings to the department. The Director of Health shall review the findings and

shall, if in agreement with the findings, deny the application.

Sec. 23. That section 71-139.02, Revised Statutes Supplement, 1993, be amended to read as follows:

71-139.02. When issuing, without examination, a license as a psychologist or mental health practitioner or a certification in social work, professional counseling, or marriage and family therapy pursuant to section 71-139, the department may issue such license or certification regardless of the title used by the other state, the territory, or the District of Columbia if the applicant provides satisfactory evidence that the requirements for licensure or certification meet or exceed those required by this state.

Sec. 24. That section 71-145, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-145. Any licensee, or certificate holder, or registrant who is desirous of changing his or her residence to another state, territory, or the District of Columbia shall, upon application to the Department of Health and the payment of the legal fee, receive a certified statement that he or she is a duly licensed, or certified, or registered practitioner in this state.

Sec. 25. That section 71-147, Revised Statutes Supplement, 1993, be amended to read as follows:

71-147. A license, certificate, or registration to practice a profession may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant, licensee, certificate holder, or registrant is guilty of any of the following acts or offenses:

(1) Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license, certificate, or registration;  
 (2) Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;

(3) Habitual intoxication or active dependency on or addiction to the use of alcohol or habituation or active dependency on or addiction to the use of any kind of controlled substance or narcotic drug or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to section 71-172.01;

(4) Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, certificate holder's, or registrant's fitness or capacity to practice the profession;

(5) Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, or (d) with gross incompetence or gross negligence;

(6) Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;

(7) Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;

(8) Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so;

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

(10) Unprofessional conduct;

(11) Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims, concerning such licensee's, certificate holder's, or registrant's professional excellence or abilities, in advertisements;

(12) Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

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

(14) Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the department relating to the licensee's,

certificate holder's, or registrant's profession, sanitation, quarantine, or school inspection;

(15) Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee, certificate holder, or registrant is not licensed, certified, or registered to practice;

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

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

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

(19) Violation of the Emergency Box Drug Act.

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

This section shall not apply to revocation for nonpayment of renewal fees nonrenewal as set out in section 71-110, subsection (1) of section 71-149, and section 71-161.10.

Sec. 26. That section 71-147.02, Revised Statutes Supplement, 1992, be amended to read as follows:

71-147.02. The department may temporarily suspend or temporarily limit the license of any licensee, or the certificate of any certificate holder, or the registration of any registrant without notice or a hearing if the director determines that there is reasonable cause to believe that grounds exist under section 71-147 for the revocation, suspension, or limitation of the license, or certificate, or registration and that the licensee's, or certificate holder's, or registrant's continuation in practice would constitute an imminent danger to the public health and safety. Simultaneously with any such action, the department shall institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the license, or certificate, or registration. Such hearing shall be held no later than fifteen days from the date of such temporary suspension or temporary limitation of the license, or certificate, or registration.

A continuance of the hearing shall be granted by the department upon the written request of the licensee, or certificate holder, or registrant, and such a continuance shall not exceed thirty days. A temporary suspension or temporary limitation order by the director shall take effect when served upon the licensee, or certificate holder, or registrant.

In no case shall a temporary suspension or temporary limitation of a license, or certificate, or registration under this section be in effect for a period of time in excess of ninety days. If a decision is not reached within ninety days, the licensee, or certificate holder, or registrant shall be reinstated to full licensure, or certification, or registration unless and until the department reaches a decision to revoke, suspend, or limit the license, or certificate, or registration or otherwise discipline the licensee, or certificate holder, or registrant.

Sec. 27. That section 71-148, Revised Statutes Supplement, 1993, be amended to read as follows:

71-148. For purposes of section 71-147, unprofessional conduct shall mean any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

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

(2) Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured;

(3) Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a patient;

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

(5) Cheating on or attempting to subvert the licensing or certification examination;

(6) Assisting in the care or treatment of a patient without the

consent of such patient or his or her legal representative;

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

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

(9) Willful betrayal of a professional secret except as otherwise provided by law;

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

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

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

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

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

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

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

(17) Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession or occupation of the applicant, licensee, certificate holder, or registrant;

(18) Failure to keep and maintain adequate records of treatment or service;

(19) Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;

(20) Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as dangerous or addictive to oneself or, except in the case of a medical emergency, to one's spouse or child; and

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

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

Sec. 28. That section 71-149, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-149. (1) When any licensee, or certificate holder, or registrant fails, within thirty days of expiration of a license, or certificate, or registration, to pay to meet the renewal requirement of payment of the renewal fee, to submit proof of continuing education, or to pay any additional fee specified in section 71-110, the department shall automatically revoke such license, or certificate, or registration without further notice or hearing and shall make proper record of the revocation.

(2) When any licensee, or certificate holder, or registrant fails, within thirty days of expiration of a license, or certificate, or registration, to meet the continuing education requirement for renewal, if such is required, the department shall revoke such license, or certificate, or registration after notice and opportunity for hearing.

(3) Subsections (1) and (2) of this section shall not apply when the licensee, or certificate holder, or registrant has given notification to the department that he or she desires to have such license, or certificate, or registration lapse or be placed on inactive status upon expiration.

Sec. 29. That section 71-150, Revised Statutes Supplement, 1992, be amended to read as follows:

71-150. (1) The Director of Health shall have jurisdiction of proceedings: (a) To deny the issuance of a license, or certificate, or registration, (b) To refuse renewal of a license, or certificate, or registration, and (c) to discipline a licensee, or certificate holder, or registrant.

(2) To deny or refuse renewal of a license, or certificate, or registration, the department shall send the applicant, licensee, or

certificate holder, or registrant, by registered or certified mail, notice setting forth the action taken and the reasons for the determination. The denial or refusal to renew shall become final thirty days after mailing the notice unless the applicant, licensee, or certificate holder, or registrant, within such thirty-day period, gives written notice of his or her desire for a hearing. The hearing shall be conducted in accordance with the Administrative Procedure Act.

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

Sec. 30. That section 71-151, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-151. The Attorney General shall comply with such directions of the Department of Health department or of the director and prosecute such action on behalf of the state, but the county attorney of any county where a licensee, or certificate holder, or registrant has practiced, at the request of the Attorney General or of the department, shall appear and prosecute such action.

Sec. 31. That section 71-152, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-152. The following rules shall govern the form of the petition in such cases brought pursuant to section 71-150:

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

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

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

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

Sec. 32. That section 71-154, Revised Statutes Supplement, 1992, be amended to read as follows:

71-154. Notice of the filing of such petition a petition pursuant to section 71-150 and of the time and place of hearing shall be served upon the licensee, or certificate holder, or registrant at least ten days before the hearing. The notice may be served by any method specified in section 25-505.01, or the director 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.

Sec. 33. That section 71-155, Revised Statutes Supplement, 1992, be amended to read as follows:

71-155. The proceeding under section 71-150 shall be summary in its nature and triable as an equity action and shall be heard by the Director of Health or by a hearing officer designated by the director under rules and regulations of the department. Affidavits may be received in evidence in the discretion of the director or hearing officer. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing held under this section, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers, irrespective of the petition:

(1) Issue a censure or reprimand against the licensee, or certificate holder, or registrant;

(2) Suspend judgment;

(3) Place the licensee, or certificate holder, or registrant on probation;

(4) Place a limitation or limitations on the license, or certificate, or registration and upon the right of the licensee, or certificate holder, or registrant to practice the profession to such extent, scope, or type of practice, for such time, and under such conditions as are found necessary and proper;

(5) Impose a civil penalty not to exceed ten thousand dollars. The amount of the penalty shall be based on the severity of the violation;

(6) Enter an order of suspension of the license, or certificate, or registration;

(7) Enter an order of revocation of the license, or certificate, or

registration; and

(8) Dismiss the action.

The licensee, or certificate holder, or registrant shall not engage in the practice of a profession after a license, or certificate, or registration to practice such profession is revoked or during the time for which it is suspended. If a license, or certificate, or registration is suspended, the suspension shall be for a definite period of time to be set by the director. The director may provide that the licensee, or certificate, or registration shall be automatically reinstated upon expiration of such period, reinstated if the terms and conditions as set by the director are satisfied, or reinstated subject to probation or limitations or conditions upon the practice of the licensee, or certificate holder, or registrant. If such license, or certificate, or registration is revoked, such revocation shall be for all times, except that at any time after the expiration of two years, application may be made for reinstatement pursuant to section 71-161.04.

Sec. 34. That section 71-156, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-156. In case the licensee, or certificate holder, or registrant fails to appear, either in person or by counsel at the time and place designated in such notice the notice required by section 71-154, the Director of Health after receiving satisfactory evidence of the truth of the charges shall order the license, or certificate, or registration revoked or suspended or shall order any or all of the other appropriate disciplinary measures authorized by section 71-155 to be taken against the licensee, or certificate holder, or registrant.

Sec. 35. That section 71-157, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-157. If the order issued pursuant to section 71-156 is adverse to the licensee, or certificate holder, or registrant, the costs shall be charged to him or her as in ordinary civil actions in the district court, but if the state is the unsuccessful party, the costs shall be paid out of any money in the Bureau of Examining Boards of the Department of Health available for that purpose. Witness fees and costs may be taxed according to the rules prevailing in the district court.

Sec. 36. That section 71-161.02, Revised Statutes Supplement, 1992, be amended to read as follows:

71-161.02. The authority of the Director of Health to discipline a licensee, or certificate holder, or registrant by placing him or her on probation pursuant to section 71-155 shall include, but not be limited to, the following:

(1) To require the licensee, or certificate holder, or registrant to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of such combinations of written, oral, practical, and clinical, at the option of the director;

(2) To require the licensee, or certificate holder, or registrant to submit to a complete diagnostic examination by one or more physicians appointed by the director. If the director requires the licensee, or certificate holder, or registrant to submit to such an examination, the director shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's, or certificate holder's, or registrant's choice if the licensee, or certificate holder, or registrant chooses to make available such a report or reports by his or her physician or physicians; and

(3) To restrict or limit the extent, scope, or type of practice of the licensee, or certificate holder, or registrant.

Sec. 37. That section 71-161.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.04. (1) A person licensed, or certified, or registered by the department whose license, or certificate, or registration has been suspended or has had limitations placed thereon for any reason specified in sections 71-147 and 71-148 may petition the board of examiners in the profession of the petitioner to recommend the reinstatement of the license, or certificate, or registration at any time.

(2) A person licensed, or certified, or registered by the department whose license, or certificate, or registration has been revoked for any reason specified in such sections may petition the board of examiners to recommend reinstatement after a period of two years has elapsed from the date of revocation.

Sec. 38. That section 71-161.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.05. Any petition for reinstatement due to nonpayment of renewal fees, noncompliance with continuing education requirements, or disciplinary action shall state such pertinent facts as may be required by the board by rule and regulation, with the approval of the department. The petition shall be accompanied by at least two verified recommendations from licensed, ~~or certified, or registered~~ practitioners of the same profession as the petitioner and by at least two recommendations from citizens. Recommendations shall be from persons having personal knowledge of the activities of the petitioner since the license, ~~or certificate, or registration~~ was revoked or since disciplinary action was imposed.

Sec. 39. That section 71-161.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

Sec. 40. That section 71-161.07, Revised Statutes Supplement, 1992, be amended to read as follows:

71-161.07. Each board of examiners shall make a recommendation to the Director of Health regarding reinstatement following disciplinary action within the board's profession. In determining whether reinstatement should be recommended, the board (1) may request the department to investigate the petitioner to determine if the petitioner has committed acts or offenses prohibited by sections 71-147 and 71-148, (2) may require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the board, the petitioner being free also to consult a physician or physicians of his or her own choice for a complete diagnostic examination and to make available a report or reports thereof to the board, and (3) may require the petitioner to pass a written, oral, or practical examination or any combination of such examinations.

The affirmative vote of a majority of the members of the board shall be necessary to recommend reinstatement of a license, ~~or certificate, or registration~~ with or without terms, conditions, or restrictions. The board may grant or deny, without a hearing or argument, any petition to recommend reinstatement filed pursuant to this section 71-161.04 when the petitioner has been afforded a hearing or an opportunity for a hearing upon any such petition filed pursuant to this section within a period of two years immediately preceding the filing of such petition.

Denial by the board of the petition for recommendation of reinstatement of the license or certificate may be appealed. ~~The 7 and the~~ appeal shall be in accordance with the Administrative Procedure Act.

Sec. 41. That section 71-161.09, Revised Statutes Supplement, 1992, be amended to read as follows:

71-161.09. The board of examiners for any profession or occupation licensed, ~~or certified, or registered~~ by the department pursuant to Chapter 71, with the approval of the department, may adopt and promulgate, by rules and regulations, standards of relicensure, ~~and recertification, and reregistration~~ for each Nebraska-licensed, ~~and Nebraska-certified, and Nebraska-registered~~ practitioner of such profession or occupation in active practice within the State of Nebraska. Such regulations may include the prescribed number of hours which are to be attained biennially for receiving information presented by or in the form of board-approved scientific schools, clinics, forums, lectures, courses of study, home study courses, or educational seminars relating to the practice of such profession or occupation and held within or outside the state. The board and the department shall

consult with the appropriate professional academies, professional societies, and professional associations in the development of such standards. The purpose of any such action by such board shall be to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure expansive and comprehensive service to the public. The number of hours that may be required shall be prescribed by the board in such rules and regulations for any calendar year. In no instance may the board require a greater number of hours of approved scientific schools, clinics, forums, lectures, courses of study, or educational seminars than are available at approved scientific schools, clinics, forums, lectures, courses of study, or educational seminars held within the State of Nebraska.

Sec. 42. That section 71-161.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.10. (1) Upon the establishment of such standards for relicensure, ~~or recertification, or reregistration~~ by any board of examiners, by rule and regulation, and with the approval of the department, each licensed, ~~or certified, or registered~~ practitioner of such profession or occupation in active practice within the state shall, on or before the date of expiration of his or her license, ~~or certificate, or registration~~ in the year the requirement applies, certify on an affidavit form provided by the board of examiners of the profession or occupation concerned that he or she has complied with section 71-161.09 during the preceding two-year period. Such board shall, on or before the date of expiration of the license, ~~or certificate, or registration~~ in the year the requirement applies, report all licensees, ~~or certificate holders, or registrants~~ who have complied with the educational requirements to the Director of the Bureau of Examining Boards. Licensees, ~~or certificate holders, or registrants~~ who have not complied with such requirement shall not be issued a renewal license, ~~or certificate, or registration~~ unless such requirements are waived or unless such licensees, ~~certificate holders, or registrants~~ are unable to comply due to circumstances beyond their control. Procedures for denial of renewal, ~~nonrenewal~~ of the license, ~~or certificate, or registration~~ of such licensees, ~~or certificate holders, or registrants~~ due to failure to submit proof of continuing education shall be identical to those for nonpayment of renewal fees as provided in the statutes governing licensure or certification of such profession or occupation sections 71-110 and 71-149, as well as procedures for reinstatement of the same. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply. The department, on the recommendation of the board of examiners of the licensee's, ~~or certificate holder's, or registrant's~~ profession, may waive continuing education requirements, in part or in total, for any two-year licensing, ~~or certification, or registration~~ period when a licensee, ~~or certificate holder, or registrant~~ submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(a) The licensee, ~~or certificate holder, or registrant~~ holds a Nebraska license, ~~or certificate, or registration~~ but is not practicing his or her profession or occupation in Nebraska;

(b) The licensee, ~~or certificate holder, or registrant~~ has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license ~~or certificate~~ renewal date;

(c) The licensee, ~~or certificate holder, or registrant~~ has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding the license ~~or certificate~~ renewal date; and

(d) The licensee, ~~or certificate holder, or registrant~~ was first licensed, ~~or certified, or registered~~ within the twenty-four months immediately preceding the license ~~or certificate~~ renewal date.

The department, with the consent of the interested board of examiners, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.

(2) Each licensee, ~~certificate holder, or registrant~~ shall provide a sworn affidavit listing continuing education activities in which he or she participated or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designed by the department. Each licensee, ~~certificate holder, or registrant~~ shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.



The appropriate examining board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee, certificate holder, or registrant selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 43. That section 71-161.14, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.14. The denial, refusal of renewal, limitation, suspension, or revocation of a license, or certificate, or registration as provided in section 71-161.13 shall continue in effect until reversed on appeal or until the cause of such denial, refusal of renewal, limitation, suspension, or revocation no longer exists and the board of examiners in the profession or occupation of the applicant, former licensee, or certificate holder, or registrant, or licensee, or certificate holder, or registrant finds, upon competent medical evaluation by a qualified physician or physicians, that the applicant, former licensee, or certificate holder, or registrant, or licensee, or certificate holder, or registrant is qualified to engage in the practice of the profession or occupation for which he or she made application, for which he or she was formerly licensed, or certified, or registered, or for which he or she was licensed, or certified, or registered subject to limitation and certifies that fact to the Director of Health. Upon such finding whereupon the director, notwithstanding the provision of any other statute, shall issue, return, or reinstate such license, or certificate, or registration or remove any limitation or restrictions on such license, or certificate, or registration if the person is otherwise qualified as determined by the board of examiners in the relevant profession or occupation of the applicant, former licensee or certificate holder, or licensee or certificate holder to practice or to continue in the practice of such profession or occupation.

Sec. 44. That section 71-161.15, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.15. Refusal of an applicant, for a license or certificate or of a licensee, or a certificate holder, or registrant to submit to a physical or mental examination requested by the board of examiners in the relevant profession or occupation of the applicant, licensee, or certificate holder pursuant to sections 71-161.12 to 71-161.16 to determine his or her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which he or she is licensed, or certified, or registered by the Department of Health pursuant to the provisions of Chapter 71 shall be just cause for denial of the application or for refusal of renewal or suspension of his or her license, or certificate, or registration automatically by the director until such examination has been made.

Sec. 45. That section 71-161.17, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.17. (1) The license, or certificate, or registration of any person to practice any profession or occupation licensed, or certified, or registered by the Department of Health pursuant to the provisions of Chapter 71 shall be suspended automatically if he or she is determined by legal process to be mentally ill.

(2) A certified copy of the document evidencing that such a licensee, or certificate holder, or registrant has been determined by legal process to be mentally ill shall be transmitted to the Director of Health as soon as possible following such determination.

(3) A suspension under this section may be terminated by the Director of Health when he or she receives competent evidence that such former practitioner is not or is no longer mentally ill and is otherwise satisfied, with due regard for the public interest, that such former practitioner's license, or certificate, or registration to practice may be restored.

Sec. 46. That section 71-162, Revised Statutes Supplement, 1993, be amended to read as follows:

71-162. (1) The following fees shall be collected by the department and remitted to the State Treasurer:

(a) Not less than fifty dollars and not more than three hundred dollars for a license issued on the basis of an examination given by the department or organization specified by the department or for a license issued on the basis of a license granted by another state or territory by reciprocity to practice audiology, athletic training, chiropractic, dental hygiene, dentistry, funeral directing and embalming, massage therapy, optometry, pharmacy, physical therapy, podiatry, respiratory care, speech-language pathology, veterinary medicine, or mental health practice;

(b) Not less than one hundred dollars and not more than six hundred dollars for a license issued on the basis of examination or on the basis of a

license granted by another state or territory by reciprocity to practice psychology;

(c) Not less than three hundred dollars and not more than seven hundred seventy-five dollars for a license issued on the basis of examination given by the department or organization specified by the department to practice medicine and surgery or osteopathic medicine, and not less than two hundred dollars and not more than five hundred dollars for a license issued on the basis of a license granted by another state or territory by reciprocity to practice medicine and surgery or osteopathic medicine;

(d) For issuance or renewal of a certificate as a certified professional counselor or for certification by reciprocity, not less than twenty-five dollars and not more than four hundred dollars;

(e) For issuance or renewal of a certificate as a certified social worker or a certified master social worker or for certification by reciprocity, not less than twenty-five dollars and not more than four hundred dollars;

(f) For issuance or renewal of a certificate as a certified marriage and family therapist or for certification by reciprocity, not less than twenty-five dollars and not more than four hundred dollars;

(g)(i) For a license to operate a massage therapy school, not less than one hundred dollars and not more than three hundred dollars, and for renewal of a license, not less than one hundred dollars and not more than four hundred dollars, and (ii) for a license to operate a massage therapy establishment, not less than one hundred dollars and not more than three hundred dollars, and for renewal of a license, not less than one hundred dollars and not more than four hundred dollars;

(h) For a certificate as a certified nutritionist, not less than fifty dollars and not more than three hundred dollars. The fee for renewal of a certificate as a certified nutritionist shall be not less than twenty dollars and not more than four hundred dollars. The fee for certification by reciprocity shall be not less than fifty dollars and not more than three hundred dollars;

(i) For the biennial renewal of a license to practice medicine and surgery, osteopathic medicine, psychology, or any of the professions enumerated in subdivision (a) of this subsection, not less than twenty dollars and not more than four hundred dollars;

(j) For a certified statement that a licensee, or certificate holder, or registrant is licensed, or certified, or registered in this state, twenty-five dollars, and for verification that a licensee, or certificate holder, or registrant is licensed, or certified, or registered in this state, five dollars; and

(k) For a duplicate original or reissued license, or certificate, or registration, ten dollars.

All money paid as licensure, certification, registration, and renewal fees shall be kept in a separate fund to be used for the benefit of the profession so paying such fees.

(2) The department, upon the recommendation of the appropriate board of examiners, shall adopt and promulgate rules and regulations to specify the fee to be charged for the cost of the licensure or certification examination, for licensure or certification, and for licensure or certification renewal in each profession enumerated in subsection (1) of this section. The fee for the licensure or certification examination shall not exceed the cost of such examination.

Sec. 47. That section 71-163, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-163. Any applicant for a license, or certificate, or registration who withdraws his or her application or whose application is rejected by the department shall be allowed the return of his or her fee, except for an administrative fee of twenty-five dollars to be retained by the department, unless the fee remitted is less than twenty-five dollars in which case such fee shall be forfeited.

Sec. 48. That section 71-164, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

Sec. 49. That section 71-166, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-166. Any person who presents to the department a diploma or certificate of which he or she is not the rightful owner for the purpose of procuring a license, or certificate, or registration, who falsely impersonates

anyone to whom a license, ~~or~~ certificate, ~~or~~ registration has been issued by the department, who falsely holds himself or herself out to be a person licensed, ~~or~~ certified, ~~or~~ registered by the department, or who aids and abets another who is not licensed, ~~or~~ certified, ~~or~~ registered to practice that profession in practicing a licensed, ~~certified, or registered~~ profession shall be guilty of a Class IV felony.

Sec. 50. That section 71-168, Revised Statutes Supplement, 1992, be amended to read as follows:

71-168. (1) The department shall enforce the Uniform Licensing Law and for that purpose shall make necessary investigations. Every licensee, ~~or~~ certificate holder, ~~or~~ registrant and member of a board of examiners shall furnish the department such evidence as he or she may have relative to any alleged violation which is being investigated. He or she shall also report to the department the name of every person without a license, ~~or~~ certificate, ~~or~~ registration that he or she has reason to believe is engaged in practicing any profession for which a license, ~~or~~ certificate, ~~or~~ registration is required by the Uniform Licensing Law. The department may, along with the Attorney General and other law enforcement agencies, investigate such reports or other complaints of unauthorized practice.

(2) Any licensee, certificate holder, or registrant who is required to file a report of loss or theft of a controlled substance to the federal Drug Enforcement Administration shall provide a copy of such report to the department.

Sec. 51. That section 71-170, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-170. The Department of Health shall have printed in pamphlet form for each profession the following matter which is pertinent to the particular profession for which such pamphlet is published: (1) The law regulating the practice of the profession; (2) the rules of the department relative to licenses, ~~and~~ certificates, ~~and~~ registrations; and (3) the rules relating to examinations adopted by the department on the recommendation of the board of examiners.

Sec. 52. That section 71-171.01, Revised Statutes Supplement, 1992, be amended to read as follows:

71-171.01. The department shall provide the Attorney General with a copy of all complaints it receives and advise the Attorney General of investigations it makes which may involve any possible violation of statutes or rules and regulations by the licensee, ~~or~~ certificate holder, ~~or~~ registrant. The Attorney General shall then determine which, if any, statutes, rules, or regulations the licensee, ~~or~~ certificate holder, ~~or~~ registrant has violated and the appropriate legal action to take. The Attorney General may: (1) Elect to file a petition under section 71-150 or not to file a petition; (2) negotiate a voluntary surrender or voluntary limitation pursuant to section 71-161.11; or (3) in cases involving a technical or insubstantial violation, refer the matter to the appropriate board of examiners for the opportunity to resolve the matter by issuance of a letter of concern or to recommend to the Attorney General that he or she enter into an assurance of compliance with the licensee, ~~or~~ certificate holder, ~~or~~ registrant in lieu of filing a petition. Neither a letter of concern nor an assurance of compliance shall constitute discipline against a licensee, ~~or~~ certificate holder, ~~or~~ registrant.

Sec. 53. That section 71-171.02, Revised Statutes Supplement, 1992, be amended to read as follows:

71-171.02. Upon referral of a matter under section 71-171.01 by the Attorney General, the board of examiners may:

(1) Send to the licensee, ~~or~~ certificate holder, ~~or~~ registrant a letter of concern, approved by the Attorney General, which includes a statement of the statute, rule, or regulation in question and a statement advising the licensee, ~~or~~ certificate holder, ~~or~~ registrant of the conduct that would violate a such statute, rule, or regulation. Such letter shall be signed by the board and shall become a part of the public record of the licensee, ~~or~~ certificate holder, ~~or~~ registrant;

(2) Advise the Attorney General on the content of an agreement to serve as the basis of an assurance of compliance. The Attorney General may contact the licensee, ~~or~~ certificate holder, ~~or~~ registrant to reach, by voluntary agreement, an assurance of compliance. The assurance shall include a statement of the statute, rule, or regulation in question, a description of the conduct that would violate such statute, rule, or regulation, the assurance of the licensee, ~~or~~ certificate holder, ~~or~~ registrant that he or she will not engage in such conduct, and acknowledgment by the licensee, ~~or~~ certificate holder, ~~or~~ registrant that violation of the assurance constitutes unprofessional conduct as provided by subdivision (16) of section 71-148.

Such assurance shall be signed by the licensee, ~~or~~ certificate holder, ~~or~~ registrant and shall become a part of the public record of the licensee, ~~or~~ certificate holder, ~~or~~ registrant. The licensee, ~~or~~ certificate holder, ~~or~~ registrant shall not be required to admit to any violation of the law and the assurance shall not be construed as such an admission; or

(3) Recommend that the Attorney General file a petition under section 71-150.

Sec. 54. That section 71-172, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-172. The opening of an office for the practice of any profession for which a license, certificate, or registration is required by the Uniform Licensing Law, the announcing to the public in any way the intention to practice such profession, the use of any professional degree or designation, or any sign, card, circular, device, or advertisement, as a practitioner of any such profession or as a person skilled in the same, shall be prima facie evidence of engaging in such profession.

Sec. 55. That section 71-1,103, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1,103. The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine:

- (1) Persons rendering gratuitous services in cases of emergency;
- (2) Persons administering ordinary household remedies;
- (3) The members of any church practicing its religious tenets, except that they shall not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of or hold themselves out to be physicians or surgeons, and such members shall not be exempt from the quarantine laws of this state;
- (4) Students of medicine and surgery who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician;
- (5) Physicians and surgeons of the United States Armed Forces or Public Health Service or United States Department of Veterans Affairs when acting in the line of such duty in this state;
- (6) Physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and licensed in another state when incidentally called into this state for consultation with a physician and surgeon licensed in this state;
- (7) Physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and who reside in a state bordering this state and who are duly licensed under the laws thereof to practice medicine and surgery but who do not open an office or maintain or appoint a place to meet patients or to receive calls within this state;
- (8) Persons providing or instructing as to use of braces, prosthetic appliances, crutches, contact lenses, and other lenses and devices prescribed by a doctor of medicine licensed to practice while working under the direction of such physician;
- (9) Dentists practicing their profession when licensed and practicing in accordance with sections 71-183 to 71-191;
- (10) Optometrists practicing their profession when licensed and practicing under and in accordance with sections 71-1,133 to 71-1,136;
- (11) Osteopathic physicians practicing their profession if licensed and practicing under and in accordance with sections 71-1,137 and 71-1,141;
- (12) Chiropractors practicing their profession if licensed and practicing under sections 71-177 to 71-182;
- (13) Podiatrists practicing their profession when licensed and practicing under and in accordance with sections 71-173 to 71-176;
- (14) Psychologists practicing their profession when licensed and practicing under and in accordance with sections 63 to 93 of this act;
- (15) Any person licensed or certified under the laws of this state to practice a limited field of the healing art, not specifically named in this section, when confining themselves strictly to the field for which they are licensed or certified, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to prescribe drugs in any form or to perform operative surgery;
- (15) (16) Physicians and surgeons who are duly licensed to practice medicine and surgery in another state who have been recommended by the secretary of the board of examiners in the state of licensure and who have been granted temporary practice rights by the Board of Examiners in Medicine and Surgery, with the approval of the Department of Health, for a period not to exceed three months in any twelve-month period;
- (16) (17) Persons obtaining blood specimens while working under an

order of or protocols and procedures approved by a physician, registered nurse, or other independent health care practitioner licensed to practice by the state if the scope of practice of that practitioner permits the practitioner to obtain blood specimens; and

(17) (18) Any other trained person employed by a licensed institution or facility which is defined in section 71-2017.01 or clinical laboratory certified pursuant to the Nebraska Clinical Laboratories Certification Act, the federal Clinical Laboratory Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes.

Every act or practice falling within the practice of medicine and surgery as defined not specially excepted in this section shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.

Sec. 56. That section 71-1,104, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1,104. (1) Each applicant for a license to practice medicine and surgery shall (a)(i) present proof that he or she is a graduate of an accredited school or college of medicine, (ii) if a foreign medical graduate, provide a copy of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates that is currently effective and relates to such applicant or provide such credentials as are necessary to certify that such foreign medical graduate has successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service, or (iii) if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination but has not yet received the permanent certificate attesting to the same, provide such credentials as certify the same to the Department of Health, (b) present proof that he or she has served at least one year of graduate medical education approved by the Board of Examiners in Medicine and Surgery or, if a foreign medical graduate, present proof that he or she has served at least three years of graduate medical education approved by the board, and (c) pass an examination prescribed and conducted by the board and approved by a licensing examination designated by the board and the department covering appropriate medical subjects.

(2) The department, upon the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (1)(b) of this section, if the applicant has served at least one year of graduate medical education approved by such board and if the following conditions are met:

(a) The applicant meets all other qualifications for a license to practice medicine and surgery;

(b) ~~the~~ The applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and

(c) ~~the~~ The applicant submits proof that he or she will enter into the practice of medicine in a medical profession shortage area designated as such by the Nebraska Rural Health Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.

(3) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the medical profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the Director of Health, upon recommendation of the board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the department for removal of the limitations. The director, upon the recommendation of the board, may grant or deny such application or may continue the license with limitations. The fee for a license to practice medicine and surgery based on a waiver of the requirement of more than one year of graduate medical education and the renewal of such license shall be the same as the fees prescribed in section 71-162.

(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the department may take disciplinary action against a license granted on the basis of a waiver of the

requirement of more than one year of graduate medical education for violation of the limitations on the license. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.

Sec. 57. That section 71-1,132.14, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.14. The applicant An applicant for a license as a registered professional nurse or as a licensed practical nurse shall be required to pass a written examination in such subjects as the board may determine. The department, based upon dates provided by the board, shall give public notice of the time and place of all examinations required by sections 71-1,132.04 to 71-1,132.53, 71-1,132.08, 71-1,132.11 to 71-1,132.16, 71-1,132.20, 71-1,132.27, 71-1,132.29, 71-1,132.35, 71-1,132.37, 71-1,132.47, and 71-1,132.48. Such notice shall be given not later than thirty days prior to the date of examination. The department shall have a registered nurse representative at all such examinations who shall be responsible for the details of the examination. Upon the applicant's passing such examination and meeting all other requirements for licensure, the department, upon the recommendation of the board, shall issue to the applicant a license to practice nursing as a registered nurse or as a licensed practical nurse. The department may adopt and promulgate rules and regulations to provide for the review of procedures for the development and administration of examinations and to protect the security of the content of examination questions and answers. The department shall not may enter into an agreement to adopt an examination from a national testing service without first obtaining from that service if the department has obtained detailed documentation of the process of examination development and maintenance.

Sec. 58. That section 71-1,132.16, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.16. A temporary permit to practice professional or practical nursing for a period not exceeding one year may be issued to:  
(1) An individual seeking to obtain licensure or reinstatement of his or her license when he or she has not practiced nursing in the last five years. Such permit shall be valid only for the duration of the review course of study and only for nursing practice required for the review course of study;

(2) Graduates of approved professional and practical programs of nursing who have passed the licensure examination, pending the completion of application for Nebraska licensure. Such permit shall be valid for a period not to exceed sixty days; or

(3) (a) an individual seeking to reapply for a license which has been suspended or refused by reason of the fact that such individual has not practiced nursing for a period of five years, or (b) graduates of approved professional and practical schools of nursing in this state and graduates of nursing programs approved by other states which meet the requirements of the Board of Nursing. Such permit may be issued upon application by the graduate for the first licensing examination following his or her graduation, and shall be valid pending results of such examination. Any temporary permit issued pursuant to this section shall be issued for a period not exceeding one year and under such conditions as the board, with the approval of the department, may determine. The permit may be extended at the discretion of the board, with the approval of the department. Nurses currently licensed in another state as either a registered or practical nurse, who have graduated from an educational program approved by the Board of Nursing, may be granted the temporary permit provided by this section pending completion of application for Nebraska licensure. Such permit shall be valid for a period not to exceed sixty days.

Temporary permits issued pursuant to this section may be extended at the discretion of the board, with the approval of the department.

Sec. 59. That section 71-1,132.29, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1,132.29. The department, upon the recommendation of the board, may deny, revoke, or suspend any license to practice nursing issued by the department or applied for in accordance with sections 71-1,132.04 to 71-1,132.37 71-1,132.53 or may otherwise discipline a licensee upon the grounds and in the manner provided in the Uniform Licensing Law.

Sec. 60. That section 71-1,132.49, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.49. The department shall by rules and regulations set the fees to be paid:

(1) By an applicant for a license to practice as a registered professional nurse, but the fee shall not be in excess of seventy-five

dollars;

(2) By an applicant for a license to practice as a practical nurse, but the fee shall not be in excess of sixty dollars;

(3) By an applicant for renewal of a license, but the fee shall not be in excess of one hundred forty dollars;

(4) By an applicant for reinstatement of a license, but the fee shall not be in excess of ten dollars;

(5) For providing identification of inactive status to those individuals requesting such identification, but the fee shall not be in excess of twenty-five dollars; and

(6) For certification to another state or country, but the fee shall not be in excess of twenty-five dollars.

The applicable fee set by the department pursuant to this section shall accompany the application.

Sec. 61. That section 71-1,142, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,142. For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy shall mean (a) the interpretation and evaluation of prescription orders, (b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices, (c) the participation in drug selection, drug utilization review, drug source selection, and drug administration, (d) the proper and safe storage of drugs and devices and the maintenance of proper records therefor, (e) patient counseling, (f) the provision of pharmaceutical care, and (g) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. The active practice of pharmacy shall mean the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(2) Administration shall mean the direct application of a drug or device by injection, inhalation, ingestion, or other means to the body of a patient;

(3) Board of pharmacy or board shall mean the Board of Examiners in Pharmacy;

(4) Caregiver shall mean any person acting as an agent on behalf of a patient or any person aiding and assisting a patient;

(5) Compounding shall mean the preparation, mixing, or assembling of a drug or device (a) as the result of a practitioner's prescription order or initiative occurring in the course of professional practice based upon the relationship between the practitioner, patient, and pharmacist or (b) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding shall include the preparation of drugs or devices in anticipation of prescription orders based upon routine, regularly observed prescribing patterns;

(6) Deliver or delivery shall mean the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration;

(7) Department shall mean the Department of Health;

(8) Device shall mean an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is prescribed by a medical practitioner and dispensed by a pharmacist;

(9) Dispense or dispensing shall mean the preparation and delivery of a drug or device pursuant to a lawful order of a medical practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the drug or device;

(10) Distribute shall mean the delivery of a drug or device other than by administering or dispensing;

(11) Person shall mean an individual, corporation, partnership, limited liability company, association, or other legal entity;

(12) Labeling shall mean the process of preparing and affixing a label to any drug container or device container, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation;

(13) Pharmaceutical care shall mean the provision of drug therapy for the purpose of achieving therapeutic outcomes that improve a patient's quality of life. Such outcomes shall include (a) the cure of disease, (b) the elimination or reduction of a patient's symptomatology, (c) the arrest or slowing of a disease process, or (d) the prevention of a disease or

symptomatology. Pharmaceutical care shall include the process through which the pharmacist works in concert with the patient and his or her caregiver, physician, or other professionals in designing, implementing, and monitoring a therapeutic plan that will produce specific therapeutic outcomes for the patient;

(14) Pharmacist shall mean any person who (a) is licensed by the State of Nebraska to practice pharmacy or (b) is primarily responsible for providing pharmaceutical care as defined in subdivision (13) of this section;

(15) Pharmacy shall mean (a) any establishment, place, or location advertised as a pharmacy, drug store, hospital pharmacy, dispensary, apothecary, or any combination of such titles or any establishment where the practice of pharmacy is carried on except as exempted in section 71-1,143 and (b) any establishment, place, or location used as a pick-up point or drop point, including kiosks, for prescriptions to be filled or where prescribed drugs or devices are made ready for delivery to the patient, but shall not include an emergency box located within an institution pursuant to the provisions of the Emergency Box Drug Act;

(16) Drugs, medicines, and medicinal substances shall mean (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans or animals, (c) articles, except food, intended to affect the structure or any function of the body of a human or an animal, (d) articles intended for use as a component of any articles specified in subdivision (a), (b), or (c) of this subdivision, except any device or its components, parts, or accessories, and (e) prescription drugs as defined in subdivision (21) of this section;

(17) Medical practitioner shall mean any licensed physician, surgeon, podiatrist, dentist, or other person licensed to write prescriptions intended for treatment or prevention of disease or to affect body function in humans or animals;

(18) Patient counseling shall mean the verbal communication by a pharmacist, in a manner reflecting dignity and the right of the patient to a reasonable degree of privacy, of information to the patient or caregiver in order to improve therapeutic outcomes by maximizing proper use of prescribed drugs and devices and shall also include the duties set out in subsection (2) of section 71-1,147.35;

(19) Pharmacist in charge shall mean a pharmacist licensed by the State of Nebraska to practice pharmacy who has been designated on a pharmacy permit or designated by a public or private hospital licensed by the Department of Health as being responsible for the practice of pharmacy in the pharmacy for which such permit is issued or such hospital's inpatient pharmacy and who shall work within the physical confines of such pharmacy for a majority of the hours per week that the pharmacy is open for business averaged over a twelve-month period or thirty hours per week, whichever is less;

(20) Pharmacy intern shall mean (a) a student currently enrolled in an accredited college or school of pharmacy or (b) a graduate of an accredited college or school of pharmacy serving his or her internship, such internship to expire not later than fifteen months after the date of graduation or at the time of professional licensure, whichever comes first. Such pharmacy intern may compound and dispense drugs or devices and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist who shall either be the person to whom the pharmacy permit is issued or in the actual employ of the permittee;

(21) Prescription drug or legend drug shall mean (a) a drug which under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) Caution: Federal law prohibits dispensing without prescription; or (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian or (b) a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by medical practitioners only;

(22) Prescription order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug or device;

(23) Nonprescription drugs shall mean nonnarcotic medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of this state and the federal government;

(24) Supervision shall mean the immediate personal guidance and direction by the licensed pharmacist on duty in the facility of the performance by supportive pharmacy personnel of authorized activities or



functions subject to verification by such pharmacist, except that when supportive pharmacy personnel perform authorized activities or functions to assist a pharmacist on duty in the facility when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a certified physician assistant to patients or residents of a health care facility licensed pursuant to sections 71-2017 to 71-2029, the activities or functions of such supportive pharmacy personnel shall only be subject to verification by a pharmacist on duty in the facility;

(25) Supportive pharmacy personnel shall mean individuals at least eighteen years of age who are high school graduates or officially recognized by the State Department of Education as possessing the equivalent degree of education, who have never been convicted of any drug-related misdemeanor or felony, and who, under the written control procedures and guidelines of an employing pharmacy and who have received onsite training pursuant to subsection (4) of section 71-1,147.33, may perform those functions which do not require the exercise of professional judgment in assisting a pharmacist in connection with the preparation, compounding, dispensing, and distribution of drugs or devices under the supervision of a licensed pharmacist on duty in the facility, when such functions are subject to verification. The ratio of supportive pharmacy personnel allowed to assist one pharmacist in the preparation, compounding, dispensing, and distribution of drugs or devices shall not exceed one-to-one, except that a two-to-one ratio may apply to supportive pharmacy personnel assisting a pharmacist in circumstances when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a certified physician assistant to patients of a hospital licensed pursuant to sections 71-2017 to 71-2029. Under no circumstances shall the ratio exceed two supportive pharmacy personnel to one supervising pharmacist;

(26) Verification shall mean the confirmation by the supervising pharmacist of the accuracy and completeness of the acts, tasks, or functions undertaken by supportive pharmacy personnel to assist the pharmacist in the practice of pharmacy. Verification by the supervising pharmacist shall be documented prior to the time when the drug or device is dispensed; and

(27) Written control procedures and guidelines shall mean the document prepared by an employing pharmacy and approved by the board which specifies the manner in which the qualifications of supportive pharmacy personnel employed by the pharmacy are determined, the manner in which the training of such personnel is conducted and their basic level of competency is confirmed, the manner in which supervision is provided, the manner in which the functions of supportive pharmacy personnel are verified, and a protocol governing the use of supportive pharmacy personnel and the functions which they may perform.

Sec. 62. That section 71-1,147.34, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,147.34. (1) Except as provided in subdivision (7) of section 71-1,147.33, disciplinary action may be taken in accordance with section 71-155 against the permit of the employing pharmacy or the license of the hospital and the license of or the pharmacist in charge for the failure to submit written control procedures and guidelines and to receive board approval prior to the employment of supportive pharmacy personnel.

(2) Disciplinary action may be taken in accordance with such section against the supervising pharmacist who is on duty in the pharmacy and is responsible for the supervision of supportive pharmacy personnel for his or her failure or the failure of the supportive pharmacy personnel to follow approved written control procedures and guidelines.

(3) Disciplinary action may be taken in accordance with such section against the supervising pharmacist who is on duty in the pharmacy and is responsible for the supervision of supportive pharmacy personnel for any failure to properly verify the accuracy and completeness of the acts, tasks, or functions undertaken by supportive pharmacy personnel, which failure results in a discrepancy in the dispensing process.

(4) Disciplinary action may be taken in accordance with such section against the license of a pharmacist in charge, or the permit of the pharmacy, or the license of the hospital for the hiring and employment of an individual to serve as supportive pharmacy personnel when the pharmacist, pharmacy, or hospital knew or reasonably should have known that such individual was not qualified by law to so serve.

Sec. 63. For purposes of sections 63 to 93 of this act the definitions found in sections 64 to 72 of this act shall be used.

Sec. 64. Board shall mean the Board of Examiners of Psychologists.

Sec. 65. Client or patient shall mean a recipient of psychological services within the context of a professional relationship. In the case of

individuals with legal guardians, including minors and incompetent adults, the legal guardian shall also be considered a client or patient for decisionmaking purposes.

Sec. 66. Code of conduct shall mean that set of regulatory rules of professional conduct which has been adopted by the board pursuant to section 74 of this act to protect the public welfare by providing rules that govern a professional's behavior in the professional relationship.

Sec. 67. Department shall mean the Department of Health.

Sec. 68. Institution of higher education shall mean a university, professional school, or other institution of higher learning that:

(1) In the United States, is regionally accredited by a regional or professional accrediting organization recognized by the United States Department of Education;

(2) In Canada, holds a membership in the Association of Universities and Colleges of Canada; or

(3) In other countries, is accredited by the respective official organization having such authority.

Sec. 69. Mental and emotional disorder shall mean a clinically significant behavioral or psychological syndrome or pattern that occurs in a person and is associated with present distress or disability or with significantly increased risk of suffering death, pain, disability, or an important loss of freedom. Such disorders may take many forms and have varying causes but must be considered a manifestation of behavioral, psychological, or biological dysfunction in the person. Reasonable descriptions of the kinds and degrees of mental and emotional disorders may be found in the revisions of accepted nosologies such as the International Classification of Diseases and the Diagnostic and Statistical Manual of Mental Disorders.

Sec. 70. Practice of psychology shall mean the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The practice of psychology shall include, but not be limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and psychophysiological and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorders, alcoholism and substance abuse, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability; psychoeducational evaluation, therapy, remediation, and consultation; and supervision of qualified individuals performing services specified in this section. Psychological services may be rendered to individuals, families, groups, organizations, institutions, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.

Sec. 71. Psychologist shall mean a person licensed to engage in the practice of psychology in this or another jurisdiction. The terms certified, registered, chartered, or any other term chosen by a jurisdiction to authorize the autonomous practice of psychology shall be considered equivalent terms.

Sec. 72. Representation as a psychologist shall mean that the person uses any title or description of services which incorporates the words psychology, psychological, or psychologist or which implies that he or she possesses expert qualification in any area of psychology or that the person offers to individuals or to groups of individuals services defined as the practice of psychology.

Sec. 73. That section 71-1,208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,208. Special meetings of the board may be held at such times as may be deemed necessary or advisable by the board or a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the rules of the board. When the layperson is authorized to vote, four members shall constitute a quorum. When the layperson is not authorized to vote, three members shall constitute a quorum. All actions taken by the board shall require agreement among a majority of those members authorized to vote. The secretary of the board shall be selected by the board and shall hold office at the pleasure of the board. The secretary may or may not be a member of the board.

Sec. 74. That section 71-1,209, Revised Statutes Supplement, 1992, be amended to read as follows:

~~71-1,209.~~ In addition to the powers and duties granted the board, by other provisions of sections ~~71-1,206 to 71-1,221,~~ the board, with the approval of the department, shall make all rules adopt and promulgate all rules and regulations, not inconsistent with the Constitution of Nebraska and the laws of Nebraska, that are reasonably necessary for the proper performance of its duties and regulation of proceedings before it. The board, with the approval of the department, shall formulate a code of professional adopt and promulgate rules and regulations regarding conduct for the practice of psychology. Such rules and code regulations shall be adopted in conformance with the Administrative Procedure Act. These provisions of the code of professional The rules and regulations regarding conduct which are sufficient grounds for revocation or suspension of a license, certificate, or registration or other disciplinary measures shall be adopted by the board and approved by the department as constituting unprofessional conduct under subdivision (10) of section 71-147.

Sec. 75. That section 71-1,210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,210.~~ The department shall receive and account for all money derived under sections ~~71-1,206 to 71-1,221~~ 63 to 93 of this act. The department shall pay remit the money monthly to the State Treasurer who shall keep it in a separate fund to be known as for credit to the Psychologists Licensing Fund, which fund is hereby created. Money received in such fund shall be used by the department or the board with the department's approval.

The secretary of the board shall be bonded under the blanket surety bond required by section 11-201. The premium for this bond shall be paid out of the Psychologists Licensing Fund.

All reimbursement for expenses shall be paid only from the Psychologists Licensing Fund. No money shall be paid from the General Fund for expenses or liabilities incurred by the board, and such expenses or liabilities shall not constitute a charge on any state funds other than the Psychologists Licensing Fund.

Any money in the Psychologists Licensing Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to ~~72-1269~~ 72-1276.

Sec. 76. Unless otherwise expressly stated, references to licensed psychologists in sections 63 to 93 of this act, the Nebraska Mental Health Commitment Act, and in section 44-513 shall mean only psychologists licensed under section 77 or 79 or subdivisions (2) and (3) of section 80 of this act and shall not mean persons holding a special license under subdivision (1) of section 80 or under section 81 of this act.

Any reference to a person certified to practice clinical psychology under the law in effect immediately prior to the operative date of this section and any equivalent reference under the law of another jurisdiction, including, but not limited to, certified clinical psychologist, health care practitioner in psychology, or certified health care provider, shall be construed to refer to a psychologist licensed under the Uniform Licensing Law except for persons licensed under subdivision (1) of section 80 of this act or under section 81 of this act.

Sec. 77. An applicant for licensure as a psychologist shall:

(1) Possess a doctoral degree from a program of graduate study in professional psychology from an institution of higher education. The degree shall be obtained from a program of graduate study in psychology that meets the standards of accreditation adopted by the American Psychological Association. Any applicant from a doctoral program in psychology that does not meet such standards shall present a certificate of retraining from a program of respecialization that does meet such standards;

(2) Prior to taking the examination, demonstrate that he or she has completed two years of supervised professional experience. One year of such experience shall be an internship meeting the standards of accreditation adopted by the American Psychological Association, and one year shall be supervised postdoctoral experience. The criteria for appropriate supervision shall be in accordance with rules and regulations adopted and promulgated by the board. Postdoctoral experience shall be compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice; and

(3) Pass an examination. The board shall approve and the department shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examination and shall require a written, and may require an oral, examination of each candidate for licensure. The board may adopt and approve a national standardized examination and any examination developed by the board.

Sec. 78. The board may waive all or portions of the examination required by section 77 of this act (1) if a psychologist has been licensed in another jurisdiction and if the requirements for licensure in that jurisdiction are equal to or exceed the requirements for licensure in Nebraska, (2) for psychologists meeting the requirements of section 82 of this act, or (3) for an applicant who is board-certified in an area of professional psychology by the American Board of Professional Psychology.

Sec. 79. A person who is licensed as a psychologist and certified as a clinical psychologist under the law in effect immediately prior to the operative date of this section shall be deemed to have met all requirements for licensure under section 77 of this act and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law.

Sec. 80. Except as provided in this section, a person licensed as a psychologist under the law in effect immediately prior to the operative date of this section but not certified in clinical psychology:

(1) Shall be issued a special license to practice psychology that continues existing requirements for supervision. Any psychological practice that involves the diagnosis and treatment of major mental and emotional disorders by a person holding a special license shall be done under the supervision of a licensed psychologist approved by the board in accordance with regulations developed by the board. A psychologist licensed under this subdivision shall not supervise mental health practitioners or independently evaluate persons under the Nebraska Mental Health Commitment Act. Supervisory relationships shall be registered with the board by a notarized letter signed by both the supervisor and supervisee. The letter shall contain:

(a) A general description of the supervisee's practice and the plan of supervision;

(b) A statement by the supervisor that he or she has the necessary experience and training to supervise this area of practice; and

(c) A statement by the supervisor that he or she accepts the legal and professional responsibility for the supervisee's practice with individuals having major mental and emotional disorders.

Psychologists practicing with special licenses may continue to use the title licensed psychologist but shall disclose supervisory relationships to clients or patients for whom supervision is required and to third-party payors when relevant. Psychologists who wish to continue supervisory relationships existing immediately prior to the operative date of this section with qualified physicians may do so if a letter as described in this subdivision is received by the board within three months after such date.

(2) May apply for licensure within three months after the operative date of this section by demonstrating that he or she has rendered psychological diagnostic and treatment services as the major element of his or her employment in an educational, correctional, or health care setting for at least four years after licensure. A psychologist demonstrating such experience shall be deemed to have met equivalent requirements for licensure to those required by section 77 of this act and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law. For purposes of this subdivision:

(a) Educational settings shall be those which are part of a university or state college and those regulated by the State Department of Education;

(b) Correctional settings shall be those under the jurisdiction of the Department of Correctional Services; and

(c) Health care settings shall be hospitals, clinics, and mental health centers licensed by the Department of Health and accredited by the Joint Commission on Hospital Accreditation or by the Department of Public Institutions.

The four-year period shall be continuous and represent four years of full-time employment or a combination of half-time and full-time employment that totals four years. For purposes of this subdivision, year shall mean a calendar year except for educational settings that may define the employment year in nine-month increments. In no case shall an applicant receive four years of credit for experience accrued in less than four calendar years; or

(3) May apply for licensure within three months of the operative date of this section by demonstrating that he or she has been employed as full-time faculty in a program of graduate education in psychology approved by the American Psychological Association for a period not less than five years after licensure. A person demonstrating such employment shall be deemed to have met equivalent requirements for licensure under section 77 of this act and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law.

A person licensed but not certified to practice clinical psychology

under the law in effect immediately prior to the operative date of this section who has failed the examination for clinical certification shall not be eligible to apply under subdivisions (2) and (3) of this section. The board may deny an application under such subdivisions if the applicant has had any action taken against him or her for violations of the laws licensing psychologists by the board or the boards of other jurisdictions. Such person shall be granted a special license under subdivision (1) of this section.

Sec. 81. A person who, as of the operative date of this section, has matriculated in an educational program and who, within three years after such date, demonstrates to the board that he or she meets the requirements for licensure as a psychologist which were in effect immediately prior to such date shall be issued a special license to practice psychology which shall be subject to the same conditions specified in subdivision (1) of section 80 of this act.

Sec. 82. Notwithstanding section 77 of this act, the board shall license an applicant who:

(1) Has at least twenty years of licensure to practice psychology in a United States or Canadian jurisdiction when the license was based on a doctoral degree;

(2) Has had no disciplinary sanction during the entire period of licensure; and

(3) Has passed the Nebraska board-developed examination.

Sec. 83. Notwithstanding section 77 of this act, the board may issue a license as a psychologist to any individual who qualifies for such a license pursuant to an agreement of reciprocity entered into by the board with the board or boards of another jurisdiction or multiple jurisdictions.

Sec. 84. Nothing in sections 77 to 83 of this act shall be construed to prohibit the practice of psychology in this state by a person holding a doctoral degree in psychology from an institution of higher education who is licensed as a psychologist under the laws of another jurisdiction if the requirements for a license in the other jurisdiction are equal to or exceed the requirements for licensure in Nebraska and if the person provides no more than an aggregate of thirty days of professional services as a psychologist per year as defined in the rules and regulations of the board. Psychologists practicing under this section shall notify the board of the nature and location of their practice and provide evidence of their licensure in another jurisdiction.

Upon determination that the applicant has met the requirements of this section, the board shall issue a letter permitting the practice. An individual's permission to practice under this section may be revoked if it is determined by the department that he or she has engaged in conduct defined as illegal, unprofessional, or unethical under the statutes, rules, or regulations governing the practice of psychology in Nebraska.

Sec. 85. A psychologist licensed under the laws of another jurisdiction may be authorized by the board to practice psychology for a maximum of one year if the psychologist has made application to the board for licensure and has met the educational and experience requirements for licensure in Nebraska, if the requirements for licensure in the former jurisdiction are equal to or exceed the requirements for licensure in Nebraska, and if the psychologist is not the subject of a past or pending disciplinary action in another jurisdiction. Denial of licensure shall terminate this authorization.

Sec. 86. The board shall ensure through rules and regulations and enforcement that psychologists limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

Sec. 87. (1) Nothing in sections 63 to 93 of this act shall be construed to prevent the teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions if such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. Nothing in such sections shall prevent the provision of expert testimony by psychologists who are otherwise exempted by such sections. Persons holding a doctoral degree in psychology from an institution of higher education may use the title psychologist in conjunction with the activities permitted by this subsection.

(2) Nothing in sections 63 to 93 of this act shall be construed to prevent members of other recognized professions that are licensed, certified, or regulated under the laws of this state from rendering services consistent with their professional training and code of ethics and within the scope of

practice as set out in the statutes regulating their professional practice if they do not represent themselves to be psychologists.

(3) Nothing in sections 63 to 93 of this act shall be construed to prevent duly recognized members of the clergy from functioning in their ministerial capacity if they do not represent themselves to be psychologists or their services as psychological.

(4) Nothing in sections 63 to 93 of this act shall be construed to prevent persons who are certified as school psychologists by the State Board of Education from using the title school psychologist and practicing psychology as defined in such sections if such practice is restricted to regular employment within a setting under the jurisdiction of the State Board of Education. Such individuals shall be employees of the educational setting and not independent contractors providing psychological services to educational settings.

(5) Nothing in sections 63 to 93 of this act shall be construed to prevent any of the following persons from engaging in activities defined as the practice of psychology if they do not represent themselves by the title psychologist, if they do not use terms other than psychological trainee, psychological intern, psychological resident, or psychological assistant to refer to themselves, and if they perform their activities under the supervision and responsibility of a psychologist in accordance with the rules and regulations of the board:

(a) A matriculated graduate student in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education;

(b) An individual pursuing postdoctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under sections 63 to 93 of this act; or

(c) An individual with a master's degree in clinical, counseling, or educational psychology or an educational specialist degree in school psychology who administers and scores and may develop interpretations of psychological testing under the supervision of a psychologist. Such individuals shall be deemed to be conducting their duties as an extension of the legal and professional authority of the supervising psychologist and shall not independently provide interpretive information or treatment recommendations to clients or other health care professionals prior to obtaining appropriate supervision. The board may adopt and promulgate rules and regulations governing the conduct and supervision of persons referred to in this subdivision, including the number of such persons that may be supervised by a licensed psychologist. Persons who have carried out the duties described in this subdivision as part of their employment in institutions accredited by the Department of Public Institutions, the State Department of Education, or the Department of Correctional Services for a period of two years prior to the operative date of this section may use the title psychologist associate in the context of their employment in such settings. Use of the title shall be restricted to duties described in this subdivision, and the title shall be used in its entirety. Partial or abbreviated use of the title and use of the title beyond what is specifically authorized in this subdivision shall constitute the unlicensed practice of psychology.

Sec. 88. A psychologist and anyone under his or her supervision shall conduct his or her professional activities in conformity with the code of conduct. Any person found guilty of or entering a plea of no contest to any of the acts or offenses specified in section 71-147 or 71-148 or violations of the code of conduct shall pay the cost of all expenses of investigation and prosecution of his or her case to the board.

Sec. 89. It shall be a violation of sections 63 to 93 of this act for any person not licensed in accordance with such sections to represent himself or herself as a psychologist. It shall be a violation of such sections for any person not licensed in accordance with such sections to engage in the practice of psychology whether practicing as an individual, firm, partnership, limited liability company, corporation, agency, or other entity.

Any person who represents himself or herself as a psychologist in violation of such sections or who engages in the practice of psychology in violation of such sections shall be guilty of a Class II misdemeanor. Each day of violation shall constitute a separate offense. Any person filing or attempting to file, as his or her own, a diploma or license of another or a forged affidavit of identification shall be guilty of a Class IV felony.

It shall be unlawful for a person whose license to practice psychology has been suspended or revoked to practice psychology in this state. The board may issue, with or without reexamination, a new license to such a

person whenever it deems such course safe and just.

Sec. 90. That section 71-1,220, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,220: The Attorney General, acting on behalf of the department, or the local county attorney may apply to the district court in the county in which a violation of sections 71-1,206 to 71-1,221 63 to 93 of this act is alleged to have occurred for an order enjoining or restraining the commission or continuance of the acts complained of. The court may grant such temporary or permanent injunction or restraining order, without bond, as it deems just and proper. The remedy provided by this section shall be in addition to, and independent of, any other remedies available for the enforcement of sections 71-101 to 71-1,196 and 71-1,206 to 71-1,221 the Uniform Licensing Law.

Sec. 91. The confidential relations and communications between psychologists and their clients and patients shall be on the same basis as those between physicians and their clients and patients as provided in section 27-504.

In judicial proceedings, whether civil, criminal, or juvenile, in legislative and administrative proceedings, and in proceedings preliminary and ancillary thereto, a client or patient, or his or her legal guardian or personal representative, may refuse to disclose or may prevent the disclosure of confidential information, including information contained in administrative records, communicated to a psychologist, or to a person reasonably believed by the client or patient to be a psychologist, or the psychologist's or person's agents, for the purpose of diagnosis, evaluation, or treatment of any mental and emotional disorder. In the absence of evidence to the contrary, the psychologist shall be presumed to be authorized to claim the privilege on the client's or patient's behalf.

This privilege may not be claimed by the client or patient, or on his or her behalf by authorized persons, in the following circumstances:

(1) When abuse or harmful neglect of children, the elderly, or disabled or incompetent individuals is known or reasonably suspected;

(2) When the validity of a will of a former client or patient of the psychologist is contested;

(3) When such information is necessary for the psychologist to defend against a malpractice action brought by the client or patient;

(4) When an immediate threat of physical violence against a readily identifiable victim is disclosed to the psychologist;

(5) When an immediate threat of self-inflicted injury is disclosed to the psychologist;

(6) When the client or patient, by alleging mental or emotional damages in litigation, puts his or her mental state in issue;

(7) When the client or patient is examined pursuant to court order;

(8) When the purpose of the proceeding is to substantiate and collect on a claim for mental or emotional health services rendered to the client or patient or any other cause of action arising out of the professional relationship; or

(9) In the context of investigations and hearings brought by the client or patient and conducted by the board, when violations of sections 63 to 93 of this act are at issue.

Sec. 92. (1) No monetary liability and no cause of action shall arise against any psychologist for failing to warn of and protect from a client's or patient's threatened violent behavior or failing to predict and warn of and protect from a client's or patient's violent behavior except when the client or patient has communicated to the psychologist a serious threat of physical violence against 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 psychologist 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 against any person who is a psychologist for a confidence disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section in accordance with subsection (2) of this section.

Sec. 93. A psychologist shall, in the period since his or her license was issued or last renewed, complete at least twenty-four hours of continuing education courses. Such courses shall be approved by the board and documented as provided in rules and regulations of the board.

Sec. 94. That section 71-1,234, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,234. (1) Each Nebraska-licensed respiratory care practitioner in active practice within the State of Nebraska shall be required on or before

June 1 of each even-numbered year, commencing in 1988, to attend twenty hours biennially of such approved scientific schools, clinics, forums, lectures, or educational seminars as may be approved by the board as a prerequisite for the licensee's next subsequent license renewal if at least twenty hours of such educational program are conducted biennially in the State of Nebraska, except as provided in section 71-1,228.

(2) Each licensed respiratory care practitioner in active practice within the State of Nebraska shall, on or before June 1 of each even-numbered year, certify on an affidavit form provided by the board that he or she has complied with this section during the preceding two-year period or the period since the license was last issued. Such board of examiners The board shall, on or before June 1 of each even-numbered year, report all licensees who have complied with the educational requirements to the Director of the Bureau of Examining Boards. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt or unable to comply due to circumstances beyond their control. Procedures for denial of renewal of the license of such licensees nonrenewal for failure to submit proof of continuing education shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply. The department, on the recommendation of the board, may waive all or part of the continuing education requirements for any two-year licensing period, or for the period since the license was last issued, when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

- (a) The licensee holds a Nebraska license but is not in the practice of respiratory care in Nebraska;
  - (b) The licensee has served in the regular armed forces of the United States during any part of the twenty-four months immediately preceding the license renewal date;
  - (c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding any license renewal date; and
  - (d) The licensee was first licensed within the twenty-four months immediately preceding the renewal date provided in section 71-110.
- (3) The department, upon the recommendation of the board, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.
- (4) Each licensee shall provide a sworn affidavit listing continuing education activities in which he or she participated or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designed by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.

(5) The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee selected for audit shall be required to produce documentation of his or her attendance at continuing education seminars listed on his or her renewal application.

Sec. 95. That section 71-1,305, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,305. Consultation shall mean a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a licensed clinical psychologist licensed to engage in the practice of psychology as provided in section 76 of this act or a qualified physician 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. 96. That section 71-1,307, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,307. Mental health practice shall mean 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.



Mental health practice shall not include the practice of psychology or medicine, prescribing drugs or electroconvulsive therapy, treating physical disease, injury, or deformity, diagnosing major mental illness or disorder except in consultation with a qualified physician or ~~licensed clinical~~ a psychologist licensed to engage in the practice of psychology as provided in section 76 of this act, measuring personality or intelligence for the purpose of diagnosis or treatment planning, using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician or licensed ~~clinical~~ psychologist, or using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed ~~clinical~~ psychologist.

Mental health practice shall include the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

Nothing in sections 71-1,306, 71-1,310, and 71-1,311 shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under sections 71-1,295 to 71-1,338 but not licensed under section 71-1,314 shall not engage in mental health practice.

Sec. 97. That section 71-1,310, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,310. Professional counseling shall mean the assessment and treatment of mental and emotional disorders within the context of professional counseling theory and practice of individuals, couples, families, or groups ~~for remuneration~~ and shall include, but not be limited to:

(1) Assisting individuals or groups through the counseling relationship to develop understanding, define goals, plan action, and change behavior with the goal of reflecting interests, abilities, aptitudes, and needs as they are related to personal and social concerns, educational progress, and occupations;

(2) Appraisal activities which shall mean selecting, administering, scoring, and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, except that nothing in this subdivision shall be construed to authorize a certified professional counselor to engage in the practice of clinical psychology as defined in section 71-1,222 ~~76 of this act~~;

(3) Referral activities which evaluate data to identify which persons or groups may better be served by other specialists;

(4) Research activities which shall mean reporting, designing, conducting, or consulting on research in counseling with human subjects;

(5) Therapeutic, vocational, or personal rehabilitation in relationship to adapting to physical, emotional, or intellectual disability; and

(6) Consulting on any activity listed in this section.

Sec. 98. That section 71-1,311, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,311. (1) Social work practice or the practice of social work shall mean the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice:

(a) Information, resource identification and development, and referral services;

(b) Preparation and evaluation of psychosocial assessments and development of social work service plans;

(c) Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;

(d) Development, implementation, and evaluation of social work programs and policies;

(e) Supportive contacts to assist individuals and groups with personal adjustment to crisis, transition, economic change, or a personal or family member's health condition, especially in the area of services given in hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, and correctional facilities. Nothing in this subdivision shall be construed to prevent charitable and religious organizations, ~~the clergy,~~ ~~governmental agencies,~~ ~~hospitals,~~ ~~health clinics,~~ ~~home health agencies,~~ ~~schools,~~ ~~shelters for the homeless,~~ ~~shelters for the urgent care of victims of sexual assault,~~ ~~child abuse,~~ ~~elder abuse,~~ ~~or domestic violence,~~ ~~nursing homes,~~ ~~or correctional facilities~~ from providing supportive contacts to assist

individuals and groups with adjustment to crisis, transition, economic change, or personal or a family member's health condition if such persons or organizations do not represent themselves to be social workers;

(f) Social casework for and prevention of psychosocial dysfunction, disability, or impairment; and

(g) Social work research, consultation, and education.

(2) Social work practice shall not include the following:

(a) The measuring and testing of personality or intelligence;

(b) Accepting fees or compensation for the treatment of disease, injury, or deformity of persons by drugs, surgery, or any manual or mechanical treatment whatsoever;

(c) Prescribing drugs or electroconvulsive therapy; and

(d) Treating organic diseases or major psychiatric diseases, <sup>7</sup> except by an individual seeking to fulfill postgraduate requirements for licensure under the supervision of a licensed professional as provided in section 71-1,312.

(3) A certified master social worker who practices within the confines of this section shall not be required to be licensed as a mental health practitioner.

Sec. 99. That section 71-1,312, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,312. After September 1, 1994 1995, no person shall engage in mental health practice or hold himself or herself out as a mental health practitioner unless he or she is licensed for such purpose pursuant to the Uniform Licensing Law, except that this section 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 abuse counselors who are certified by the Division on Alcoholism and Drug Abuse of the Department of Public Institutions from practicing their profession. Such exclusion shall include students training and working under the supervision of a certified alcohol and drug abuse counselor to become certified;

(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 employed by an agency or department of the State of Nebraska from discharging official duties within such agency or department during the six years immediately following September 1, 1994, except that no person shall represent himself or herself as a licensed mental health practitioner unless he or she holds such a license;

(9) 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 ~~licensed clinical psychologist~~ 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

(10) 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.

Sec. 100. That section 71-1,314, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,314. (1) On and after September 1, 1994, no person shall hold himself or herself out as a ~~licensed~~ mental health practitioner unless he or she is licensed as such by the department. A person shall be qualified to be a licensed mental health practitioner if he or she:

(a) Has received a master's degree, the course work and training leading to which was primarily therapeutic mental health in content and included a practicum or internship which required a minimum of three hundred clock hours of direct client contact under the supervision of a qualified physician, a licensed ~~clinical~~ psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before such date or of a qualified physician, a licensed ~~clinical~~ psychologist, or a licensed mental health practitioner for any hours completed after such date, from a regionally accredited institution or an institution the mental health program of which is accredited by a nationally recognized accreditation agency;

(b) Has successfully completed three thousand hours of supervised experience in mental health practice of which fifteen hundred hours were in direct client contact in a setting where mental health services were being offered and the remaining fifteen hundred hours included, but were not limited to, review of client records, case conferences, direct observation, and video observation. For purposes of this subdivision, supervised shall mean monitored by a qualified physician, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before such date or by a qualified physician, a ~~licensed clinical psychologist~~ a psychologist licensed to engage in the practice of psychology, or a licensed mental health practitioner for any hours completed after such date, including evaluative face-to-face contact for a minimum of one hour per week. Such three thousand hours shall be accumulated after completion of the master's degree and during the five years immediately preceding the application for licensure; and

(c) Has satisfactorily passed an examination approved by the board. An individual who by reason of educational background is eligible for certification as a certified master social worker, a certified professional counselor, or a certified marriage and family therapist shall take and pass a certification examination approved by the board before becoming licensed as a mental health practitioner.

(2) For a period of one year following September 1, 1994:

(a) An individual who is certified on September 1, 1994, as a certified master social worker or certified professional counselor can be licensed as a mental health practitioner by making application to the department and paying the licensure fee; ~~and~~

(b) An individual who has a mental health-related master's degree, as determined by the board, and five years experience ~~involving direct client contact providing mental health services~~ may, upon successful completion of the examination for licensure as a mental health practitioner, be licensed as a mental health practitioner; ~~and~~

(c) An individual who obtains certification as a marriage and family therapist by September 1, 1995, can be licensed as a mental health practitioner by making application to the department and paying the licensure fee.

Sec. 101. That section 71-1,319, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,319. (1) A person shall be qualified to be a certified master social worker if he or she:

(a) Has a doctorate or a master's degree in social work from an approved educational program;

(b) Has had a minimum of at least three thousand hours of experience, in addition to the master's or doctorate degree, in social work under the supervision as defined in section 71-1,318 of a certified master social worker;

(c) Provides evidence to the board that he or she meets the requirements of subdivisions (1)(a) and (1)(b) of this section; and

(d) Satisfactorily passes an examination approved by the board.

The department, upon the recommendation of the board, may adopt and promulgate rules and regulations defining the experience required under subdivision (1)(b) of this section.

(2) A person shall be qualified to be a certified social worker if he or she: ~~(a)~~ Provides ~~provides~~ evidence to the board that he or she has a baccalaureate or master's degree in social work ~~(1)~~ ~~From from~~ an approved educational program; or

~~(ii)~~ From any program of social work education and training in which the person was enrolled between July 17, 1983, and October 17, 1987, if the person applied to the department for a certificate by October 17, 1990;

~~(b)~~ Applied to the department for a certificate by October 17, 1991, and provided evidence to the board that he or she:

~~(i)~~ Has a baccalaureate or master's degree in a field related to social work such as psychology, sociology, gerontology, human services, human development, family relations, or counseling; and

~~(ii)~~ Has been actually engaged in the practice of social work for at least one thousand hours in a nursing home; or

~~(c)~~ Applied to the department for a certificate by October 17, 1991, and provided evidence to the board that he or she has been:

~~(i)~~ Actually engaged in the practice of social work in a nursing home at least twenty hours per week for at least three of the seven years prior to making such application; or

~~(ii)~~ Actually engaged in the practice of social work full time during two of the seven years prior to making such application. The department shall, at the request of the applicant, consider any application filed by October 17, 1991, and any appeal from a decision on such application on the basis of the provisions of this subdivision. No reconsideration of an application filed by October 17, 1991, shall be considered after October 17, 1994.

For purposes of this subsection, actually engaged in the practice of social work may include services and activities provided under the direct supervision of a person with at least a master's degree in social work from an approved educational program or services and activities which are classified by title or description of duties and responsibilities as social work practice.

Sec. 102. That section 71-1,320, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,320. Upon payment of the fee provided in section 71-162 and the provision of evidence to the board of his or her professional education, training, experience, and qualifications to practice certified social work, a certificate to practice as a certified social worker shall be issued to any applicant who ~~(1)~~ applies to the department for a certificate and satisfies the educational requirements of subdivision (2)~~(a)~~ of section 71-1,319, or ~~(2)~~ applies to the department for a certificate by October 17, 1991, and satisfies the educational and practice requirements of subdivision (2)~~(b)~~ of such section or satisfies the practice requirements of subdivision (2)~~(c)~~ of such section. An applicant shall submit all materials, as the board or department may require, to determine his or her qualifications for a certificate to practice as a certified social worker and to determine his or her compliance with the requirements of this section. Failure to comply with these provisions shall be sufficient grounds to reject an application for a certificate to practice as a certified social worker under this section.

Sec. 103. That section 71-1,321, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,321. (1) Except as otherwise provided in this section, each certified social worker and each certified master social worker shall, in the period since his or her certificate was issued or last renewed, complete at least thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars.

The board and the department shall determine the manner in which attendance at all approved courses shall be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2)(a) Each certificate holder shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made.

(b) If the certificate holder has satisfied the requirements of this

section at the time application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed.

(c) If the certificate holder has not satisfied the requirements of submitted the evidence required by this section at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of this section has been granted or a waiver of its requirements approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period or for the period of time since the certificate was last issued when a certificate holder submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing social work in Nebraska;

(b) Has been in the service of the regular armed forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified social worker or as a certified master social worker in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of approved continuing education credits within one year prior to his or her application for reinstatement.

(5) Each certificate holder shall provide a sworn affidavit listing the continuing education activities which he or she participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the certificate renewal application as may be designated by the department. Each certificate holder shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers. The board may select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certificate holder selected for audit shall be required to produce documentation of his or her attendance at those continuing education seminars listed on his or her renewal application.

(6) The department shall not renew a certificate or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 104. That section 71-1,325, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,325. A person shall be qualified to be a certified professional counselor if he or she:

(1) Has received a master's degree from an approved educational program;

(2) Has had three thousand hours of years of full-time experience in professional counseling approved by the board after receipt of the master's degree; except that (a) one year of experience may be obtained prior to the granting of the master's degree if the master's program included an internship component acceptable to the board and (b) thirty graduate semester hours beyond the master's degree may be substituted for one year of required experience if the hours are clearly related to the field of professional counseling. In no case may the applicant have less than one year of full-time experience in professional counseling; and

(3) Satisfactorily passes an examination approved by the board.

The department, upon the recommendation of the board, may adopt and promulgate rules and regulations prescribing the experience required under subdivision (2) of this section.

Sec. 105. That section 71-1,326, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,326. (1) Except as otherwise provided in this section, each certified professional counselor shall, in the period since his or her

certificate was issued or last renewed, complete at least forty thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars.

The board and the department shall determine the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars shall be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2)(a) Each certified professional counselor shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made.

(b) If the certified professional counselor has satisfied the requirements of this section at the time application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed.

(c) If the certified professional counselor has not satisfied the requirements of submitted the evidence required by this section at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of this section has been granted or a waiver of the requirements of this section approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period when a certified professional counselor submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing professional counseling in Nebraska;

(b) Has been in the service of the regular armed forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified professional counselor in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least twenty sixteen hours of the approved continuing education requirements within one year prior to his or her application for reinstatement.

(5) Each certified professional counselor shall provide a sworn affidavit listing continuing education activities which he or she participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the certificate renewal application as may be designated by the department. Each certified professional counselor shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers. The board may biennially select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certified professional counselor selected for audit shall be required to produce documentation of his or her attendance at those continuing education courses, clinics, forums, lectures, programs, or seminars listed on his or her renewal application.

(6) The department shall not renew a certificate or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 106. That section 71-1,328, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,328. (1) Any person who represents himself or herself as a certified professional counselor without first being certified pursuant to the Uniform Licensing Law shall be guilty of a Class IV III misdemeanor.

(2) Any person certified pursuant to the Uniform Licensing Law who engages in the practice of professional counseling without complying with such

law may have such certification denied, refused renewal, limited, revoked, or suspended and shall otherwise be subject to disciplinary measures under sections 71-147 to 71-161.18.

Sec. 107. That section 71-1,329, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,329. (1) A person who applies to the department for certification as a marriage and family therapist within one year or less after September 1, 1994, shall be qualified for such certification if he or she:

(a) Meets the requirements of subsection (2) of this section; or

(b)(i)(A) Provides evidence to the board that he or she has a master's or doctoral degree in marriage and family therapy from an educational program approved by the board or from any program in marriage and family therapy in which the person was enrolled between January 1, 1975, and August 31, 1991; or

(B) Provides evidence to the board that he or she has a master's or doctoral degree in a field determined by the board to be related to marriage and family therapy, such as social work, psychology, sociology, human services, human development, family relations, or counseling, and has been actively engaged in the practice of marriage and family therapy for at least three thousand hours; and

(ii) Provides evidence to the board that he or she has been actually engaged in the practice of marriage and family therapy for at least twenty hours per week for at least three of the seven years prior to making such application.

(2) A person who applies to the department for certification as a marriage and family therapist more than one year after September 1, 1994, shall be qualified for such certification if he or she:

(a) Provides evidence to the board that he or she has a master's or doctoral degree in marriage and family therapy from a program approved by the board or a graduate degree in a field determined by the board to be related to marriage and family therapy and graduate-level coursework determined by the board to be equivalent to a master's degree in marriage and family therapy;

(b) Provides evidence to the board that he or she has had at least three thousand hours of experience in marriage and family therapy under a qualified supervisor as defined in subsection (4) of this section following receipt of the graduate degree; and

(c) Passes an examination approved by the board.

(3) Upon payment of the fee provided in section 71-162 and the provision of evidence to the board of his or her professional education, training, experience, and qualifications to practice marriage and family therapy, a certificate to practice as a certified marriage and family therapist shall be issued to any applicant who applies to the department for a certificate and satisfies the educational requirements of subsection (1) or (2) of this section. An applicant shall submit all materials as the board or department may require to determine his or her qualifications for a certificate to practice as a certified marriage and family therapist and to determine his or her compliance with the requirements of this section. Failure to comply with these provisions shall be sufficient grounds to reject an application for a certificate to practice as a certified marriage and family therapist under this section.

(4) For purposes of this section:

(a) Actively engaged in the practice of marriage and family therapy may include (i) services and activities provided under the direct supervision of a person with at least a master's degree in marriage and family therapy from a program approved by the board or (ii) services and activities that are classified by title or by description of duties and responsibilities as marriage and family therapy practice;

(b) Qualified supervisor shall mean a licensed mental health practitioner, ~~licensed clinical psychologist~~ psychologist licensed to engage in the practice of psychology, or licensed physician who meets supervisory standards established by rules and regulations of the board and the department on the advice of the marriage and family therapy committee; and

(c) Supervision shall mean face-to-face contact between an applicant and a qualified supervisor during which the applicant apprises the supervisor of the diagnosis and treatment of each client, the clients' cases are discussed, the supervisor provides the applicant with oversight and guidance in treating and dealing with clients, and the supervisor evaluates the applicant's performance. In order for a supervised period of time to be credited toward the time of supervision required by subdivision (2)(b) of this section, it shall consist of the following:

(i) A minimum of a ratio of two hours of supervision every two weeks;

(ii) Two hours of supervision per fifteen hours of the applicant's contact with clients; whether or not the number of hours of supervision required for a two-week period have been met;

(iii) Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;

(iv) A process which is distinguishable from personal psychotherapy or didactic instruction; and

(v) A proportion of individual and group supervision as determined by the rules and regulations of the board.

(vi) The supervisor one-on-one with the applicant at least fifty percent of the time, with the supervisor supervising no more than six supervisees during the balance of time.

Supervision provided by the applicant's parents, spouse, former spouses, siblings, children, employees, or anyone sharing the same household or any romantic, domestic, or familial relationship shall be considered a conflict of interest and shall not be acceptable toward fulfillment of certification requirements. A supervisor shall not be considered an employee of the applicant if the only compensation received by the supervisor consists of payment for actual supervisory hours.

Sec. 108. That section 71-1,330, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,330. (1) Except as otherwise provided in this section, each certified marriage and family therapist shall, in the period since his or her certificate was issued or last renewed, complete at least thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars. The board and the department shall determine the manner in which attendance at all approved courses shall be monitored, recorded, and submitted for the department. Such rules and regulations shall be adopted and promulgated in the manner and by the form prescribed by sections 71-161.09 and 71-161.10.

(2) Each certificate holder shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of subsection (1) of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made. If the certificate holder has satisfied the requirements of such subsection at the time that an application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed. If the certificate holder has not satisfied the requirements of such subsection submitted the evidence required by this section at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of such subsection has been granted or a waiver of its requirements approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period or for the period of time since the certificate was last issued when a certificate holder submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing marriage and family therapy in Nebraska;

(b) Has been in the service of the regular Armed Forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified marriage and family therapist in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of approved continuing education credits within one year prior to his or her application for reinstatement.

(5) Each certificate holder shall provide a sworn affidavit listing the continuing education activities which he or she participated in or



attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the certificate renewal application as may be designated by the department. Each certificate holder shall be responsible for maintaining in his or her personal files such certificates as records of credit from continuing education activities received from approved providers. The board may select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certificate holder selected for audit shall be required to produce documentation of his or her attendance at those continuing education seminars listed on his or her renewal application.

(6) The department shall not renew or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 109. That section 71-1,335, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,335. No person licensed or certified pursuant to sections 71-1,295 to 71-1,338 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 is limited by the laws of the State of Nebraska or as the Board of Examiners in Mental Health Practice may determine by rule and regulation;

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

(4) When there is a duty to warn under the limited circumstances set forth in section 71-1,336.

Sec. 110. That section 71-3,173, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3,173. (1) The hearing in any disciplinary action shall be before the director or a hearing officer appointed by the director.

(2) In addition to the disciplinary actions cited in section 71-155, the director may levy a fine against any practitioner found guilty of a violation, in an amount not to exceed ten times the initial fee of the license or registration held by the practitioner. All such fines shall be paid into the Cosmetology Cash Fund. In determining whether to levy a fine and the amount of the fine, the director shall take into consideration the recommendation of the board, the seriousness of the violation, and the extent to which the person derived financial gain as a result of the violation.

~~(3) Before determining the disciplinary action to impose upon a practitioner found guilty of a violation, the director shall consult with the board.~~

Sec. 111. That section 71-507, Revised Statutes Supplement, 1992, be amended to read as follows:

71-507. For purposes of sections 71-507 to 71-513:

(1) Department shall mean the Department of Health;

(2) Designated physician shall mean the physician representing the emergency medical services provider as identified by name, address, and telephone number on the significant exposure report form;

(3) Emergency medical services provider shall mean a person certified to provide emergency medical services pursuant to sections 71-5101 to 71-5164 and section 132 of this act, a person certified to provide emergency medical care pursuant to the Emergency Medical Technician-Paramedic Act, a first responder certified to provide prehospital care pursuant to the First Responders Emergency Rescue Act, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, and a firefighter;

(4) Health care facility shall have the meaning found in subdivisions (2), (10), (11), and (22) of section 71-2017.01;

(5) Infectious disease or condition shall mean hepatitis B, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, and such other diseases as the department may from time to time specify;

(6) Patient shall mean an individual who is sick, injured, wounded,

or otherwise helpless or incapacitated;

(7) Patient's attending physician shall mean the physician having the primary responsibility for the patient as indicated on the records of the health care facility;

(8) Provider agency shall mean any law enforcement agency, fire department, ambulance service, or other entity which is in the business of providing emergency response services;

(9) Significant exposure shall mean a situation in which the body fluids, such as blood, saliva, urine, or feces, of a patient have entered the body of an emergency medical services provider through a body opening such as the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's body fluids may have entered the emergency medical services provider's body; and

(10) Significant exposure report form shall mean the form used by the emergency medical services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Sec. 112. Each hospital licensed in Nebraska shall, at least annually, provide surgeons performing surgery at such hospital a report as to the number and rates of surgical infections in surgical patients of such surgeon.

Sec. 113. That section 71-2017.01, Revised Statutes Supplement, 1993, be amended to read as follows:

71-2017.01. For purposes of sections 71-2017 to 71-2029, unless the context otherwise requires:

(1) Care shall mean the exercise of concern or responsibility for the comfort and welfare of the residents of a facility by the owner, occupant, administrator, or operator of the facility in addition to the provision of food and shelter to the residents and shall include, but not be limited to, the maintenance of a minimum amount of supervision of the activities of the residents of the facility as well as the provision of a minimum amount of assistance to the residents and shall also include personal care, hereby defined as the provision of health-related services for individuals who are in need of a protective environment but who are otherwise able to manage the normal activities of daily living;

(2) Hospital shall mean (a) any institution, facility, place, or building which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or medical care over a period exceeding twenty-four consecutive hours of two or more nonrelated individuals suffering from illness, condition, injury, or deformity, (b) any institution, facility, place, or building which is devoted primarily to the rendering over a period exceeding twenty-four consecutive hours of obstetrical or other medical care for two or more nonrelated individuals, or (c) any institution, facility, place, or building in which any accommodation is primarily maintained, furnished, or offered for the medical and nursing care over a period exceeding twenty-four consecutive hours of two or more nonrelated aged or infirm persons requiring or receiving convalescent care. Hospital shall include, but not be limited to, facilities or parts of facilities which provide space for general acute hospitals, short-term hospitals, rehabilitation hospitals, long-term care hospitals, psychiatric or mental hospitals, and emergency hospitals or treatment centers. Hospital shall not be construed to include the residence, office, or clinic of a private physician or of an association of physicians, any other health practitioner, or any practitioner or association of practitioners licensed pursuant to Chapter 71, in which residence, office, or clinic patients are not treated or given care for a period in excess of twenty-four consecutive hours;

(3) General acute hospital shall mean a hospital having a duly constituted governing body which exercises administrative and professional responsibility and an organized medical staff which provides inpatient care, including medical, nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, and dietary services. Such services may be provided through a contract or agreement;

(4) Short-term hospital shall mean a hospital that (a) is primarily devoted to the diagnosis and treatment of individuals requiring short-term treatment or treatment of diagnosis consistent with the medical support available and (b) has written coordination agreements with a general acute hospital for transfers and quality assurance programs. Short-term hospital shall not mean a facility for the treatment of mental diseases, a rehabilitation hospital, an alcoholic treatment center, or a drug treatment center;

(5) Rehabilitation hospital shall mean a hospital which is operated for the primary purpose of assisting in the rehabilitation of disabled persons

through an integrated program of medical and other services provided under professional supervision;

(6) Long-term care hospital shall mean any hospital, any distinct part of any hospital, or any portion of a hospital which is primarily devoted to providing the care and services as set forth in subdivisions (10), (11), and (22) of this section;

(7) Psychiatric or mental hospital shall mean a hospital which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(8) Emergency hospital or treatment center shall mean a hospital primarily devoted to the diagnosis and treatment of individuals requiring emergency outpatient services and emergency care and with written coordination agreements with a general acute hospital for transfers and quality assurance programs;

(9) Health clinic shall mean any institution, facility, place, building, or agency, not licensed as a hospital, which is operated under the name or title of health clinic, health center, ambulatory surgical center, or any other word or phrase of like or similar import, either independently or in connection with any other purpose, for the purpose of providing or making available at such institution, facility, place, building, or agency on an outpatient basis and for a period not exceeding twenty-four consecutive hours advice, counseling, diagnosis, treatment, care, or services relating to the preservation or maintenance of health primarily or exclusively to persons not residing or confined in such institution, facility, place, building, or agency. Satellite clinics operated on an intermittent basis at a specific location or site and providing services within a portion of the total geographic area served by a licensed health clinic need not be licensed but may operate as a part of the parent clinic and share administration and services. Specific types or categories of health clinics may be further defined by appropriate rule and regulation of the Department of Health department not inconsistent with this definition and in no case shall be construed to include the residence, office, or clinic of a private physician or an association of physicians, any other health practitioner or association of practitioners, or any practitioner licensed pursuant to Chapter 71 unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week in such residence, office, or clinic;

(10) Skilled nursing facility shall mean any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients skilled nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 71-2017.06, a skilled nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.06, a skilled nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the skilled nursing facility has an average daily occupancy of sixty or fewer residents;

(11) Intermediate care facility shall mean any institution, facility, place, or building in which accommodation and board for a period exceeding twenty-four consecutive hours and also nursing care and related medical services are provided for two or more nonrelated individuals who are ill, injured, or disabled but not in need of hospital or skilled nursing facility care, but who by reason of illness, disease, injury, deformity, disability, convalescence, or physical or mental infirmity require such nursing care and related medical services. An intermediate care facility shall provide at least one licensed registered nurse or licensed practical nurse on duty on the day shift seven days per week and at least one licensed registered nurse, licensed practical nurse, or care staff member on duty on the other two shifts seven days per week. An intermediate care facility shall provide a Director of Nursing Services, who shall be a licensed registered nurse, to administer, supervise, delegate, and evaluate nursing and nursing support services of the facility. The Director of Nursing Services shall serve on the day shift five days per week, eight hours per day, except when it is necessary to vary working hours to provide supervision on other shifts, and may satisfy the day-shift nurse requirement for five of seven days per week if he or she can meet both the nursing care needs of the patients or residents for that shift and his or her administrative and supervisory responsibilities

as Director of Nursing Services;

(12) Intermediate care facility for the mentally retarded shall mean any institution, facility, place, or building, not licensed as a hospital, that provides accommodation, board, training or habilitation services, advice, counseling, diagnosis, treatment, and care, including nursing care and related medical services, for a period exceeding twenty-four consecutive hours for fifteen or more nonrelated individuals who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities. The requirement of fifteen or more nonrelated individuals shall not apply to any intermediate care facility for the mentally retarded which has a valid license as of January 1, 1988;

(13) Residential care facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more nonrelated individuals who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs but do not require the daily services of a licensed registered nurse or licensed practical nurse;

(14) Domiciliary facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation and supervision to four or more individuals, not related to the owner, occupant, manager, or administrator thereof, who are essentially capable of managing their own affairs but who are in need of supervision, including supervision of nutrition, by the institution, facility, place, or building on a regular, continuing basis but not necessarily on a consecutive twenty-four-hour basis. This definition shall not include those homes or facilities providing casual care at irregular intervals;

(15) Mental health center shall mean any institution, facility, place, or building, not licensed as a hospital, which is used to provide for a period exceeding twenty-four consecutive hours accommodation, board, and advice, counseling, diagnosis, treatment, care, or services primarily or exclusively to persons residing or confined in the institution, facility, place, or building who are afflicted with a mental disease, disorder, or disability;

(16) Center for the developmentally disabled shall mean any residential institution, facility, place, or building, not licensed as a hospital, which is used to provide accommodation, board, and training, advice, counseling, diagnosis, treatment, care, including medical care when appropriate, or services primarily or exclusively to four or more persons residing in the institution, facility, place, or building who have developmental disabilities;

(17) Alcoholic treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals having any type of habituation, dependency, or addiction to the use of alcohol, in which are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the alcohol dependent or alcoholic to move into independent living in normal surroundings but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one. Alcoholic treatment center shall include institutions, facilities, places, or buildings in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the institution, facility, place, or building having any type of habituation, dependency, or addiction to the use of alcohol. Specific types or categories of alcoholic treatment centers may be further defined by appropriate rule and regulation of the department not inconsistent with this definition;

(18) Drug treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals who have any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug, in which are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the drug user, dependent, or addict to move into independent living in normal surroundings but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a

temporary one. Drug treatment center shall include institutions, facilities, places, or buildings in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the institution, facility, place, or building having any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug. Specific types or categories of drug treatment centers may be further defined by appropriate rule and regulation of the department not inconsistent with this definition;

(19) Home health agency shall mean a public agency, private organization, or subdivision of such an agency or organization which is primarily engaged in providing skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to patients in a place of temporary or permanent residence used as the patient's home under a plan of care as prescribed by the attending physician and which meets the rules, regulations, and standards as established by the department. Nothing in this subdivision shall be construed to require (a) a physician's plan of care, (b) a summary report to the physician, (c) a progress report, or (d) a discharge summary when only personal care or assistance with the activities of daily living, as such terms are defined in section 71-6602, are provided. Parent home health agency shall mean the primary home health agency which establishes, maintains, and assures administrative and supervisory control of branch offices and subunits. Branch office shall mean a home health agency which is at a location or site providing services within a portion of the total geographic area served by the parent agency and is in sufficient proximity to share administration, supervision, and services with its parent agency in a manner that renders it unnecessary for the branch independently to meet licensure requirements. A branch office shall be part of its parent home health agency and share administration and services. Subunit shall mean a home health agency which serves patients in a geographic area different from that of the parent agency and which, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services on a daily basis and shall independently meet the licensing requirements for home health agencies. Home health agency shall not include private duty nursing registries as long as the private duty nursing registrant is the direct payee from the patient. Home health agency shall not apply to the practice of home health care by other licensed medical persons as authorized by the practice of their particular specialty nor to the individuals providing homemaker or chore services within the home;

(20) Developmental disability shall mean a severe, chronic disability of a person which (a) is attributable to a mental or physical impairment or combination of mental and physical impairment, (b) is manifested before the person attains the age of twenty-two, (c) is likely to continue indefinitely, (d) results in substantial functional limitations in three or more of the following areas of major life activity: Self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living; and economic self-sufficiency, and (e) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;

(21) Qualified mental retardation professional shall mean any person who meets the requirements of 42 C.F.R. 483.430(a); and

(22) Nursing facility shall mean any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 71-2017.07, a nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.07, a nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the nursing facility has an average daily occupancy of sixty or fewer residents;

(23) Department shall mean the Department of Health; and

(24) Ambulatory surgical center shall mean any facility, not licensed as a hospital, (a) the primary purpose of which is to provide surgical services to patients not requiring hospitalization, in which the patient is admitted to and discharged from such facility within the same

working day and is not permitted to stay overnight, (b) which meets all state licensure requirements of a health clinic pursuant to subsection (9) of this section, and (c) which has qualified for a written agreement with the Health Care Finance Administration of the United States Department of Health and Human Services or its successor to participate in medicare as an ambulatory surgical center as defined in 42 C.F.R. 416, et seq. or which receives other third-party reimbursement for facility services. Ambulatory surgical center shall not include an office or clinic used solely by a practitioner or group of practitioners in the practice of medicine, dentistry, or podiatry.

Sec. 114. That section 71-2023, Revised Statutes Supplement, 1993, be amended to read as follows:

71-2023. The Department of Health shall issue licenses for the operation of health care facilities subject to sections 71-2017 to 71-2029 and the Nebraska Nursing Home Act which are found to comply with such sections or act and such rules and regulations as are lawfully adopted and promulgated by the department. As a condition for licensure or renewal of a license, such institutions shall submit to the department a list of the names of all individual owners, partners, members, and members of boards of directors owning or managing such institutions and any other persons with financial interests or investments in such institutions. Every such licensed institution shall have a sign prominently posted in the lobby or entry area of such institution. Such sign shall be in the form of a printed card with a minimum height of twenty inches and a width of fourteen inches with each letter to be a minimum of one-fourth inch in height. The sign shall contain the name, street address, city, state, and zip code of all individual owners, partners, and members of the board of directors owning or managing such institution, except that the name of any owner who owns less than five percent of the institution shall not be included on the sign.

The department may (1) deny, suspend, or revoke licenses of such health care facilities or (2) take other disciplinary measures against the license of any such health care facility, other than a hospital, on any of the following grounds:

(a) Violation of any of the provisions of sections 71-2017 to 71-2029 or the Nebraska Nursing Home Act or the rules and regulations lawfully adopted and promulgated pursuant thereto;

(b) Permitting, aiding, or abetting the commission of any unlawful act;

(c) Conduct or practices detrimental to the health or safety of patients, residents, and employees of the facility, except that this subdivision shall not be construed to have any reference to healing practices authorized by law;

(d) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to such facility for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations promulgated by the Department on Aging; or

(e) Discrimination or retaliation against an employee or resident of any such facility who has presented a grievance or information to the office of the state long-term care ombudsman; or

(f) Violation of the Emergency Box Drug Act.

If the Department of Health determines to deny, suspend, or revoke a license, it shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such thirty-day period, requests a hearing in writing. Thereupon the applicant or licensee shall be given a fair hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either registered or certified mail to the applicant or licensee. The decision shall become final thirty days after the copy is mailed unless the applicant or licensee, within such thirty-day period, appeals the decision under section 71-2027. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations.

Other disciplinary actions taken shall be in accordance with the applicable provisions of sections 71-2023.01 to 71-2023.07 or 71-6025 to 71-6031.

Sec. 115. That section 71-2024, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2024. To protect the health, safety, and welfare of the public and to insure to the greatest extent possible the efficient, adequate, and safe practice of health care in any hospital or related institution as defined in sections 71-2017 to 71-2029 consistent with the Nebraska Nursing Home Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, and sections 28-1437 to 28-1439.05, 71-2017 to 71-2029, 71-6501, 71-6601 to 71-6615, and 71-6701 to 71-6717, the department ~~The Department of Health~~ shall adopt, promulgate, and enforce rules, regulations, and standards with respect to the different types of hospitals and related institutions except nursing homes to be licensed hereunder as may be designed to further the accomplishment of the purposes of sections 71-2017 to 71-2029. Such rules, regulations, and standards shall be modified, amended, or rescinded from time to time in the public interest by the department. ~~The department, Department of Health,~~ with the advice of the Nursing Home Advisory Council, shall adopt, promulgate, and enforce rules, regulations, and standards with respect to nursing homes. Such rules, regulations, and standards shall be in compliance with the Nebraska Nursing Home Act. Such rules, regulations, and standards shall be modified, amended, or rescinded from time to time in the public interest by the department with the advice of the Nursing Home Advisory Council.

Sec. 116. That section 71-2049, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2049. Except for state hospitals administered by the Department of Public Institutions, each hospital, as defined in section 71-2017-01, and each ambulatory surgical facility, as defined in section 71-2065 center, as such terms are defined in section 71-2017.01, shall, upon written request of a patient or third-party payor on behalf of a patient, include in such patient's or payor's bill an itemized list of all expenses such patient incurred during his or her stay at such hospital or ambulatory surgical ~~facility~~ center. Such expenses shall include, but not be limited to, the cost of (1) X-rays, (2) laboratory fees, (3) respiratory therapy services, (4) oxygen, (5) pharmaceuticals, (6) take-home drugs, (7) chargeable medical supplies, (8) central service supplies, (9) medical equipment, (10) room and board, and (11) all additional charges incurred by the patient. The right to request such information shall be clearly and conspicuously stated in each patient's or payor's bill. The patient or payor shall receive a copy of the itemized bill within fourteen days after the hospital or ambulatory surgical center receives the request. Such request shall be made by the patient or payor within twenty-eight days after the date of discharge.

Upon receipt of an itemized list, a patient or payor may request and the hospital or ambulatory surgical ~~facility~~ center shall provide an explanation of any or all expenses or services included on the itemized list. The patient or payor shall make a request for such explanation within twenty-eight days of receipt of an itemized list. The patient or payor shall receive the explanation within fourteen days after the hospital or ambulatory surgical ~~facility~~ center receives the request.

Any person who violates this section shall be guilty of a Class IV misdemeanor.

Sec. 117. That section 71-2065, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2065. Ambulatory surgical ~~facility~~ center shall mean a ~~facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization and which is licensed as a health clinic as defined by have the definition found in section 71-2017.01, but shall not include the offices of private physicians or dentists whether for individual or group practice.~~

Sec. 118. That section 71-2073, Revised Statutes Supplement, 1993, be amended to read as follows:

71-2073. All insurers, third-party administrators, the medicare and medicaid programs, and persons operating under insurance arrangements in Nebraska shall utilize and accept the hospital uniform billing form as the initial billing form on all claims filed for the payment of all inpatient and outpatient hospital charges and ambulatory surgical ~~facility~~ center charges in Nebraska. No insurer, third-party administrator, person operating under an insurance arrangement, or medicare or medicaid program shall require a Nebraska hospital or outpatient ~~surgical facility~~ ambulatory surgical center to complete an initial billing form other than the hospital uniform billing form as a condition of reimbursement for insured services provided by the hospital or ambulatory surgical ~~facility~~ center. No insurer or third-party administrator shall contract with any person or employer, union, or other organization under which health care services or benefits are provided unless

such person or organization accepts and utilizes or agrees to accept and utilize the hospital uniform billing form for claims for health care services or benefits provided to employees or members.

Sec. 119. That section 71-2074, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2074. Each hospital and ambulatory surgical facility center shall issue and complete a billing invoice on the uniform hospital billing form for outpatient and inpatient services provided by the facility hospital or center as a condition of reimbursement by the medicaid and medicare programs, insurers, third-party administrators, or persons operating under an insurance agreement.

Sec. 120. That section 71-2075, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2075. (1) Upon the written request of a prospective patient, his or her attending physician, or any authorized agent of the prospective patient, each hospital, except hospitals excluded under section 1886(d)(1)(B) of Public Law 98-21, the Social Security Act Amendments of 1983, and ambulatory surgical facility center shall provide a written estimate of the average charges for health services related to a particular diagnostic condition or medical procedure if such services are provided by the facility hospital or center. Such written request shall include a written medical diagnosis made by a health care practitioner licensed to provide such diagnosis. The prospective patient or his or her agent may also provide to the facility hospital or center the prospective patient's age and sex, any complications or co-morbidities of the prospective patient, other procedures required for the prospective patient, and other information which would allow the facility hospital or center to provide a more accurate or detailed estimate. Such estimate shall be provided within seven working days from the date of submission of the written request and information necessary to prepare such an estimate.

(2) All hospitals and ambulatory surgical facilities centers shall provide notice to the public that such hospital or facility center will provide an estimate of charges for medical procedures or diagnostic conditions pursuant to subsection (1) of this section. Such public notice shall be provided either as a part of the advertising or promotional materials of the facility hospital or center or by posting a notice in an obvious place within the public areas of the facility hospital or center.

Sec. 121. That section 71-2076, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2076. (1) Effective January 1, 1986, each hospital, except hospitals excluded under section 1886(d)(1)(B) of Public Law 98-21, the Social Security Act Amendments of 1983, and ambulatory surgical facility center shall identify the twenty most common diagnostic related groups for which services are provided by the facility hospital or center. Such listing of diagnostic related groups shall be made available to consumers of health care, along with the range of average charges for treatment and the associated average length of stay for each diagnostic related group listed. Such listing shall be provided to any person upon request. The information included in the listing shall show the date prepared and shall be regularly updated every six months.

(2) Any hospital or ambulatory surgical facility center which provides services for fewer than twenty diagnostic related groups or performs an insufficient number of procedures to compute a statistically valid average shall provide a listing to the public of the most common diagnostic related groups provided by the facility hospital or center and the average charges and length of stay for which a valid statistical average is available and shall disclose the circumstances for such limited available data.

Sec. 122. That section 71-3710, Revised Statutes Supplement, 1992, be amended to read as follows:

71-3710. (1) The board shall prescribe and provide an application form for the use of all applicants. Applicants for registration as environmental health specialists shall submit a fee of ten dollars and applicants for registration as trainees shall submit a fee of five dollars at the time of making application for registration. Such fees shall not be refundable. The board may also assess an additional fee for the cost of the examination when necessary.

A registered An environmental health specialist registered under sections 71-3702 to 71-3715 may renew his or her certificate registration by paying the board a biennial renewal fee of not less than thirty dollars nor more than two hundred fifty dollars as the board shall direct. Such fee shall be due and payable on or before January 1, 1987, and on January 1 of each odd-numbered year for which a renewal certificate registration is issued. All certificates registrations shall expire on December 31 of each even-numbered



year. Procedures for renewal shall be in accordance with section 71-110.

In no case shall registration for a trainee exceed a two-year period.

(2) Each registered environmental health specialist or trainee in active practice in the state shall be required on or before December 31 of each even-numbered year to attend twenty-four hours biennially of such approved scientific schools, clinics, forums, lectures, or environmental health specialist educational seminars, as may be announced and approved by the Director of the Bureau of Examining Boards under direction from the board, as a prerequisite for the registrant's next subsequent biennial certificate of registration renewal. At least twelve hours of such educational program shall be conducted annually within the State of Nebraska.

Each registered environmental health specialist and trainee in active practice within the State of Nebraska shall, on or before December 31 of each even-numbered year, certify to the Director of the Bureau of Examining Boards that he or she has complied with this subsection during the preceding two-year period. The Director of the Bureau of Examining Boards shall, on or before December 31 of each even-numbered year, report all registrants who have complied with the educational requirements to the board. Any registrant who has not complied with such requirements shall not be issued a renewal certificate of registration except if he or she is exempt as provided in subsection (3) of this section. Procedures for denial of renewal nonrenewal of the certificate of registration of such registrants shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.

(3) A registrant shall be exempt from the requirements of subsection (2) of this section if he or she:

(a) Holds a Nebraska certificate of registration but is not practicing as a registered environmental health specialist or registered trainee in Nebraska;

(b) Serves in the regular armed forces of the United States during any part of the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(c) Attends a college, university, or other institution of higher education for a residence period of time in excess of eight months during any part of the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(d) Submits proof that he or she was suffering from a serious or disabling illness or physical disability which prevented his or her attendance at any qualified educational seminar within the State of Nebraska during the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(e) Had first registered within the twenty-four months immediately preceding the biennial certificate of registration renewal date; or

(f) Is a registered environmental health specialist in good standing with the board who has completely retired from the active practice of environmental sanitation.

Sec. 123. That section 71-5101, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5101. The Legislature finds:

(1) That ambulance, rescue, prehospital emergency care, and basic life-support services are primary and essential health care services and that the presence of an adequately equipped ambulance and trained ambulance, rescue, prehospital emergency care, and basic life-support personnel may be the difference between life and death or permanent disability to those persons in Nebraska making use of such services in an emergency;

(2) That an effective emergency medical services system may be assisted by a program of training and certification of ambulance, rescue, prehospital emergency care, and basic life-support personnel and licensure of ambulance, rescue, prehospital emergency care, and basic life-support services approved by the board; and

(3) That sections 71-5101 to 71-5164 and section 132 of this act are essential to aid in advancing the quality of care being provided by emergency medical services in the State of Nebraska.

Sec. 124. That section 71-5102, Revised Statutes Supplement, 1993, be amended to read as follows:

71-5102. For purposes of sections 60-337 and 71-5101 to 71-5164 and section 132 of this act, unless the context otherwise requires:

(1) Airway shall mean a route for the passage of air into and out of the lungs;

(2) Ambulance or rescue service unit shall mean any privately or

publicly owned motor vehicle that is especially designed, constructed or modified, and equipped and is intended to be used for and is maintained or operated for the overland transportation of patients upon the streets, roads, highways, or public ways in this state, including funeral coaches or hearses, or any other motor vehicles used for such purposes, but shall not include or mean any motor vehicle owned or operated under the direct control of an agency of the United States Government;

(3) Ambulance attendant shall mean an individual trained or qualified to provide for, or any other individual who provides for, the care of patients while such patients are being transported in an ambulance;

(4) Artificial airway shall mean a device that is inserted through the nose or mouth to allow passage of air and oxygen to the lungs;

(5) Artificial ventilation shall mean opening the airway and restoring breathing by mouth-to-mouth or mouth-to-nose ventilation and by the use of mechanical devices;

(6) Automatic defibrillator shall mean a monitor or device capable of rhythm analysis which will charge and deliver a shock after electronically detecting the presence of ventricular fibrillation or rapid ventricular tachycardia;

(7) Basic life support shall mean those acts ordinarily performed after training by emergency medical technicians, including the use of oxygen, syrup of ipecac, pharyngeal airways, and pneumatic antishock garments, and not specifically preempted and separately licensed under the Emergency Medical Technician-Paramedic Act. When special training and certification requirements have been met, basic life support shall also include the use of automatic and semiautomatic defibrillators, the administration and maintenance of intravenous fluids, and the administration of nonvisualized advanced airway management devices;

(8) Board shall mean the Board of Ambulance Advisors;

(9) Certification shall mean formal notice of certain privileges and abilities after completion of certain training and testing;

(10) Certified ambulance attendant shall mean any individual fulfilling the requirements of section 71-5109 and shall include an emergency medical technician-ambulance meeting such requirements regardless of whether such emergency medical technician-ambulance is a member of a transporting ambulance service or rescue service;

(11) Contraindication shall mean a condition that renders a medical procedure, treatment, or medication undesirable;

(12) Defibrillation shall mean the automatic or semiautomatic application of electrocountershock therapy to persons in ventricular fibrillation or rapid ventricular tachycardia;

(13) Department shall mean the Department of Health;

(14) Division shall mean the Division of Emergency Medical Services of the department;

(15) Electrolytes shall mean salts dissolved in body fluids and cells;

(16) Emergency medical technician-A or emergency medical technician-ambulance shall mean a prehospital emergency care provider trained and certified to that level of basic life support prescribed in subsection (2) of section 71-5109 and for such other skills as determined by the department;

(17) Emergency medical technician-A/D or emergency medical technician-ambulance/defibrillator shall mean an emergency medical technician-A who has been additionally trained, tested, and certified in the use and operation of automatic or semiautomatic defibrillators pursuant to rules and regulations adopted and promulgated by the department pursuant to sections 71-5101 to 71-5140 and section 132 of this act;

(18) Emergency medical technician-A/D service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-A/D and a physician medical director to provide prehospital emergency care and to provide defibrillation;

(19) Emergency medical technician-AM or emergency medical technician-airway management shall mean an emergency medical technician-A who has been additionally trained, tested, and certified in the use and operation of nonvisualized advanced airway management devices pursuant to rules and regulations adopted and promulgated by the department;

(20) Emergency medical technician-AM service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-AM and a physician medical director to provide prehospital emergency care and to provide nonvisualized advanced airway management;

(21) Emergency medical technician-IV or emergency medical technician-intravenous shall mean an emergency medical technician-A who has

been additionally trained, tested, and certified in the use and operation of peripheral intravenous line initiation and maintenance pursuant to rules and regulations adopted and promulgated by the department;

(22) Emergency medical technician-IV service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-IV and a physician medical director to provide prehospital emergency care and to provide peripheral intravenous line initiation and maintenance;

(23) Endotracheal intubation shall mean a method of airway management in which a tube is placed through a patient's mouth or nose and directly through the larynx between the vocal cords while visualizing the vocal cords and into the trachea for the purpose of opening and maintaining an airway;

(24) First responder-A/D shall mean a first responder who has been additionally trained, tested, and certified in the use and operation of automatic or semiautomatic defibrillators pursuant to rules and regulations adopted and promulgated by the department pursuant to sections 71-5101 to 71-5140 and section 132 of this act;

(25) First responder-A/D service shall mean a first responder service utilizing first responders-A/D and a physician medical director to provide prehospital emergency care and to provide defibrillation;

(26) Hypovolemic shock shall mean shock resulting from loss of body fluid or blood;

(27) Infusion shall mean the introduction of fluid other than blood or blood products into the vascular system;

(28) Intravenous shall mean within the vein;

(29) Intravenous line shall mean a polyethylene catheter through which fluids are given directly into a vein;

(30) Oropharyngeal airway shall mean an artificial airway positioned in the mouth to prevent blockage of the upper airway by the tongue;

(31) Oxygen shall mean a gas that is necessary for breathing and is found free in the air;

(32) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(33) Peripheral intravenous therapy shall mean infusion of fluid other than blood or blood products into the vascular system to establish and maintain access to the circulation or to provide fluids in order to maintain an adequate circulatory blood volume;

(34) Person shall mean an individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity and shall include any trustee, receiver, assignee, or other legal representative thereof but shall not include any agency of the United States Government;

(35) Physician medical director shall mean a physician licensed to practice medicine and surgery pursuant to the Uniform Licensing Law who is responsible for the medical supervision of certified emergency medical technicians-A/D, emergency medical technicians-IV, or emergency medical technicians-AM and is responsible for proctoring their proficiency maintenance and continuing education requirements;

(36) Primary response service area shall mean the primary geographic area which an ambulance service, first responder-A/D service, emergency medical technician-A/D service, emergency medical technician-AM service, or emergency medical technician-IV service serves and which such service has sufficient staff and equipment to reasonably serve;

(37) Protocols shall mean a set of written policies, procedures, and directions from a physician medical director to an emergency medical technician concerning the medical procedures to be performed in specific situations;

(38) Resuscitation shall mean restoring to life or consciousness by using assisted breathing to restore ventilation and cardiopulmonary resuscitation or defibrillation to restore circulation;

(39) Semiautomatic defibrillator shall mean a monitor or device which is capable of electronically detecting a ventricular fibrillation and rapid ventricular tachycardia but requires user interaction in order to deliver a shock;

(40) Standing orders shall mean a direct order from the physician medical director to perform certain tasks for a patient under a specific set of circumstances;

(41) Syrup of ipecac shall mean a preparation of the direct root of a shrub found in Brazil and other parts of South America that can cause vomiting; and

(42) Ventilation shall mean the exchange of air between the lungs and the air of the environment as in breathing.

Sec. 125. That section 71-5109, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5109. (1) Application for a certificate of competency from the department to act as a certified ambulance attendant shall be made upon forms prepared by the department and shall contain such information as the department, with the approval of the board, deems necessary.

(2) Commencing July 15, 1992, in order to qualify for a certificate of competency to act as an ambulance attendant, a person shall:

(a) Be at least eighteen years of age;

(b) Be of good moral character;

(c) Have a current cardiopulmonary resuscitation certificate which was issued within one year preceding his or her application by an organization approved by the division; and

(d)(i) Successfully Within two years prior to application, successfully pass the United States Department of Transportation One Hundred and Ten Hour Emergency Medical Technician-Ambulance Course conducted by an institution, agency, corporation, or individual reviewed by the department and approved by the board and receive a grade of at least seventy percent on the final examination prepared by the division; within one year prior to application;

(ii) If the United States Department of Transportation One Hundred and Ten Hour Emergency Medical Technician-Ambulance Course has been taken more than two years prior to application, successfully pass an emergency medical technician-ambulance refresher course conducted by an institution, agency, corporation, or individual reviewed by the department and approved by the board and receive a grade of at least seventy percent on the final examination prepared by the division;

(iii) Hold a certificate of successful completion of the United States Department of Transportation One Hundred and Ten Hour Emergency Medical Technician-Ambulance Course conducted in a state other than Nebraska which required passage of a written and practical examination and hold a current certification or license from another state;

(iv) Be licensed or certified in Nebraska as a registered nurse, licensed practical nurse, or certified physician assistant and have successfully completed the Prehospital Emergency Care Course for Nurses approved by the division and received a grade of at least seventy percent on the final examination prepared by the division; or

(v) Hold a current certificate from the National Emergency Medical Technician-Ambulance Registry.

(3) The department shall adopt and promulgate rules and regulations setting minimum standards for courses of ambulance attendant training, including instructor certification, record keeping, examinations and their development and security, and other aspects of administration. The department may approve courses of training developed by associations, educational institutions, or other entities if such courses meet the requirements of this section and the criteria prescribed in the rules and regulations.

(4) Certificates of competency to act as certified ambulance attendants shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year after issuance. A certificate holder who requests recertification shall present evidence of (a) completion of thirty hours of continuing education in a combination of the skills, knowledge, or clinical experience which are the subject matters of the United States Department of Transportation One Hundred and Ten Hour Emergency Medical Technician-Ambulance Course approved by the division, (b) maintenance of current cardiopulmonary resuscitation certification issued within one year preceding his or her application by an organization approved by the division, and (c) certification by a local training officer, rescue captain, fire chief, or ambulance chief. The department shall notify by letter each certificate holder and the ambulance service of record of such certificate holder at least ninety days prior to the expiration of the certificate of competency to act as an ambulance attendant.

(5) The department shall, within thirty days after receipt of an application, make such investigation as is deemed necessary of the applicant for a certificate of competency as a certified ambulance attendant and, if deemed competent, shall issue a certificate of competency therefor, valid until midnight of December 31 of the third year after issuance.

(6) If a certificate of competency has been expired for less than two years, it may be renewed by presenting evidence of the completion during the preceding three years of thirty hours of continuing education in a combination of the skills, knowledge, or clinical experience which are the

subject matters of the emergency medical technician-ambulance course. If a certificate of competency has been expired for more than two years, it may be renewed by presenting evidence of the completion of the emergency medical technician-ambulance refresher course conducted by a training agency approved by the division and the receipt of a grade of at least seventy percent on the final examination prepared by the division.

(7) The department shall establish criteria for approval of organizations issuing cardiopulmonary resuscitation certification which shall include criteria for instructors, establishment of certification periods and minimum curricula, and other aspects of training and certification.

Sec. 126. That section 71-5113, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5113. (1) The department shall issue licenses for the operation of ambulances to be used for the transportation of patients and rescue personnel and for emergency medical technician-A/D services, emergency medical technician-AM services, emergency medical technician-IV services, and first responder-A/D services which are found to comply with the rules, regulations, and standards lawfully adopted and promulgated by the department with the approval of the board. The department shall issue certificates for basic life-support personnel of the various levels of training and skills who are found to comply with the rules, regulations, and standards lawfully adopted and promulgated by the department with the approval of the board. In addition to the grounds stated in sections 71-5124 to 71-5140, 71-5162, and 71-5163, the department shall deny, refuse renewal of, suspend, or revoke licenses or certificates for any of the following grounds:

(a) Violation of any of the provisions of the rules, regulations, and standards lawfully adopted and promulgated;  
 (b) Commission of an unlawful act;  
 (c) Permitting, aiding, or abetting the commission of any unlawful act; or

(d) Conduct or practices detrimental to the health or safety of patients transported in an ambulance or to members of the general public during a period of such transportation or while providing rescue, first responder, or prehospital emergency care service.

(2) If there is a determination to deny an application for or to refuse renewal of, suspend, or revoke a certificate or a license issued pursuant to sections 71-5101 to 71-5164 and section 132 of this act, the department shall send to the applicant, certificate holder, or licensee by either registered or certified mail a notice setting forth the specific reasons for the determination. The denial, refusal of renewal, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant, certificate holder, or licensee within such thirty-day period gives written notice of a desire for a hearing. Upon receipt of such notice, the applicant, certificate holder, or licensee shall be given a formal hearing before the department and the board and shall have the right to present evidence on his or her own behalf. On the basis of the evidence presented, the determination involved shall be affirmed or set aside by the department, and a copy of such decision setting forth the findings of facts and the specific reasons upon which it is based shall be sent by either registered or certified mail to the applicant, certificate holder, or licensee. The applicant, certificate holder, or licensee may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 127. That section 71-5115, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5115. (1) There is hereby established the Board of Ambulance Advisors which shall advise and assist the department in administering the First Responders Emergency Rescue Act and the program provided by sections 71-5101 to 71-5164 and section 132 of this act and approve all rules and regulations adopted and promulgated by the department under such act and sections.

(2) The board shall be composed of thirteen members appointed by the Governor, six of whom shall be representatives of volunteer ambulance services, one of whom shall be a representative of private ambulances, two of whom shall be representatives of local governmental ambulance services, one of whom shall be a physician licensed to practice medicine and surgery pursuant to the Uniform Licensing Law, one of whom shall be a first responder, one of whom shall be an administrator of a hospital licensed by the department, and one of whom shall be a public-spirited citizen of Nebraska interested in emergency medical services. Each member of the board shall be a resident of the state. Two members of the board representing the volunteer ambulance services shall be selected from each congressional district in Nebraska. Each

member of the board, with the exception of the public-spirited citizen, shall have had at least five years of experience in the profession or calling of his or her class prior to his or her appointment. Each representative of an ambulance service appointed to the board shall be an ambulance attendant certified by the department.

Sec. 128. That section 71-5119, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5119. The provisions of sections 60-337 and 71-5101 to 71-5164 and section 132 of this act shall not apply in the following situations:

(1) The occasional use of a publicly or privately owned vehicle not ordinarily used in the transportation of individuals who are sick, injured, wounded, or otherwise incapacitated or helpless when the same is done gratuitously in the performance of a lifesaving act pursuant to section 25-21,186;

(2) A vehicle rendering service as an ambulance or emergency vehicle in case of a major catastrophe or emergency when licensed ambulances based in the localities of the catastrophe or emergency are insufficient to render the services required;

(3) An ambulance from another state which is operated from a location or headquarters outside of this state in order to transport patients across state lines, but no such ambulance shall be used to pick up patients within this state for transportation to locations within this state except in case of emergency; or

(4) Ambulances or emergency vehicles owned and operated by an agency of the United States Government and the personnel of such agency.

Sec. 129. That section 71-5120, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5120. The provisions of sections 60-337 and 71-5101 to 71-5164 and section 132 of this act shall not be construed to supersede, limit, or otherwise affect the provisions of the state civil defense laws or of any interstate civil defense compact participated in by the State of Nebraska dealing with the licenses for professional, mechanical, or other skills for persons performing civil defense, emergency, or disaster functions.

Sec. 130. That section 71-5124, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5124. The purposes of sections 71-5101 to 71-5140 and section 132 of this act are (1) to provide a means by which an emergency medical technician-A/D or a first responder-A/D may administer defibrillation to persons in ventricular fibrillation or rapid ventricular tachycardia, (2) to provide for approval of training programs for emergency medical technicians-A/D and first responders-A/D, and (3) to ensure the health and safety of the general public.

Sec. 131. That section 71-5125, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5125. A person shall be qualified to be certified as an emergency medical technician-A/D or a first responder-A/D if he or she:

(1) Is at least eighteen years of age;

(2) Is of good moral character;

(3) Is certified as an ambulance attendant pursuant to section 71-5109 to be an emergency medical technician-A/D or as a first responder pursuant to section 71-7304 to be a first responder-A/D;

(4) Has successfully completed an approved emergency medical technician-A/D course to be an emergency medical technician-A/D or a first responder-A/D course to be a first responder-A/D and received a grade of at least eighty percent on the final examination in the course within one year prior to application;

(5) Is recommended by his or her service which is licensed or which will be licensed upon its members being certified;

(6) Is recommended by the physician medical director of the service;

(7) Is a member of a licensed service or one which will be licensed as such upon its members being certified; and

(8) Has a current cardiopulmonary resuscitation certification issued within the twelve months preceding his or her application by an organization approved by the division.

Sec. 132. The department shall establish criteria for approval of organizations issuing cardiopulmonary resuscitation certification which shall include criteria for instructors, establishment of certification periods and minimum curricula, and other aspects of training and certification.

Sec. 133. That section 71-5130, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5130. Certificates for emergency medical technicians-A/D and first responders-A/D shall be renewed every three years. To obtain renewal of

a certificate, a certified emergency medical technician-A/D or first responder-A/D shall have a current cardiopulmonary resuscitation certification issued within one year preceding his or her application by an organization approved by the division and otherwise meet the criteria prescribed in sections 71-5101 to 71-5140 and section 132 of this act for certification as an emergency medical technician-A/D or as a first responder-A/D.

Sec. 134. That section 71-5132, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5132. (1) An applicant for approval to conduct an emergency medical technician-A/D or first responder-A/D course shall file an application upon a form prescribed by the department and shall present proof satisfactory to the department that the proposed course meets the requirements of sections 71-5101 to 71-5140 and section 132 of this act and the rules and regulations adopted and promulgated under such sections.

(2) The department may conduct such inspections or investigations of applicants for approval to conduct a training course and of approved training courses as may be necessary to ensure compliance with such sections 71-5101 to 71-5140 and the rules and regulations adopted and promulgated under such sections.

Sec. 135. That section 71-5134, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5134. The department may deny, refuse renewal of, revoke, or suspend the certification of an emergency medical technician-A/D or a first responder-A/D or approval of an emergency medical technician-A/D instructor for any of the following reasons:

(1) Violation of sections 71-5101 to 71-5164 and section 132 of this act or the rules and regulations adopted and promulgated by the department under such sections;

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

(3) Conduct or practices detrimental to the health or safety of patients or the members of the general public;

(4) Immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice as a certified emergency medical technician-A/D or a first responder-A/D or to act as an approved emergency medical technician-A/D instructor in Nebraska;

(5) Habitual intoxication or dependency on or addiction to the use of alcohol or habituation or dependency on or addiction to the use of any controlled substance or narcotic drug;

(6) Acting in the capacity of a certified emergency medical technician-A/D or first responder-A/D or an approved emergency medical technician-A/D instructor while under the influence of alcohol or of any controlled substance or narcotic drug;

(7) Conviction of a misdemeanor or felony under the laws of this state or under the laws of the United States or any other jurisdiction which, if committed within this state, would constitute a misdemeanor or felony under the laws of this state and which has a rational relationship to the applicant's, certificate holder's, or instructor's fitness or capacity to serve as a certified emergency medical technician-A/D or first responder-A/D or an approved emergency medical technician-A/D instructor;

(8) Fraud in an application for certification, recertification, approval, or reapproval;

(9) Exceeding the scope of practice for which he or she is certified; or

(10) Any other cause adversely reflecting on the applicant's, certificate holder's, or instructor's fitness or capacity to serve as a certified emergency medical technician-A/D or first responder-A/D or act as an emergency medical technician-A/D instructor.

Sec. 136. That section 71-5135, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5135. The department may deny, refuse renewal of, revoke, or suspend approval to conduct an emergency medical technician-A/D or a first responder-A/D training course for violation of sections 71-5101 to 71-5164 and section 132 of this act or the rules and regulations adopted and promulgated under such sections, fraud or misrepresentation in the application, or other cause reflecting adversely on the applicant's or instructor's fitness or capacity to conduct such a course.

Sec. 137. That section 71-5137, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5137. The department may deny, refuse renewal of, revoke, or suspend a license to operate an emergency medical technician-A/D service or a first responder-A/D service for violation of sections 71-5101 to 71-5164 and

section 132 of this act or the rules and regulations adopted and promulgated under such sections, fraud or misrepresentation, or other cause reflecting adversely on the applicant's or licensee's fitness or capacity to operate such a service.

Sec. 138. That section 71-5139, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5139. In determining whether to approve an application for reinstatement under subsection (1) or (2) of section 71-5138, the department may:

(1) Investigate and consider the activities of the applicant since the disciplinary action was taken, including, but not limited to, activities prohibited by sections 71-5101 to 71-5164 and section 132 of this act, the act or offense for which disciplinary action was taken, the applicant's conduct while the certificate, approval, or license was in good standing, and the applicant's general reputation for truth, professional ability, and good character;

(2) Require the applicant to take additional training; and

(3) Require the applicant to pass a written examination or practical examination or both.

Denial by the department of an application for reinstatement shall be subject to hearing and review pursuant to the Administrative Procedure Act.

Sec. 139. That section 71-5140, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5140. A course sponsor whose approval to conduct an emergency medical technician-A/D or a first responder-A/D training course has been suspended or revoked may be reinstated at such time as the sponsor provides proof satisfactory to the department that such course meets the requirements of sections 71-5101 to 71-5140 and section 132 of this act and rules and regulations adopted and promulgated under such sections and will continue to meet such requirements.

Sec. 140. That section 71-5141, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5141. A person shall be qualified to be a certified emergency medical technician-AM if he or she:

(1) Is at least eighteen years of age;

(2) Is of good moral character;

(3) Is certified as an ambulance attendant pursuant to section 71-5109;

(4) Has successfully completed an approved emergency medical technician-AM course and received a grade of at least eighty percent on the final examination in the course within one year prior to application;

(5) Has a current cardiopulmonary resuscitation certificate which was issued within one year prior to application by an organization approved by the division;

(6) Is recommended by the physician medical director of an ambulance service or emergency medical technician-AM service; and

(7) Is a member of a licensed emergency medical technician-AM service or one which will be licensed as such upon certification of its members as emergency medical technicians-AM.

Sec. 141. That section 71-5145, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5145. A certificate to act as a certified emergency medical technician-AM shall be renewed every three years. To obtain renewal of a certificate, a certified emergency medical technician-AM shall have and maintain a current cardiopulmonary resuscitation certificate which was issued within one year prior to application by an organization approved by the division and meet the criteria prescribed for certification as an emergency medical technician-AM.

Sec. 142. That section 71-5151, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5151. A person shall be qualified to be a certified emergency medical technician-IV if he or she:

(1) Is at least eighteen years of age;

(2) Is of good moral character;

(3) Is certified as an ambulance attendant pursuant to section 71-5109;

(4) Has successfully completed an approved emergency medical technician-IV course and received a grade of at least eighty percent on the final examination in the course within one year prior to application;

(5) Has a current cardiopulmonary resuscitation certificate which was issued within one year prior to application by an organization approved by the division;



(6) Is recommended by the physician medical director of an ambulance service or emergency medical technician-IV service; and

(7) Is a member of a licensed ambulance service which is also a licensed emergency medical technician-IV service or one which will be licensed as such upon certification of its members as emergency medical technicians-IV.

Sec. 143. That section 71-5155, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5155. A certificate to act as a certified emergency medical technician-IV shall be renewed every three years. To obtain renewal of a certificate, a certified emergency medical technician-IV shall have a current cardiopulmonary resuscitation certificate which was issued within one year prior to application by an organization approved by the division and shall meet the criteria prescribed for certification as an emergency medical technician-IV.

Sec. 144. That section 71-5165, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5165. The Department of Health shall adopt and promulgate the rules and regulations to implement the First Responders Emergency Rescue Act and sections 71-5101 to 71-5164 by September 1, 1992 and section 132 of this act.

Sec. 145. That section 71-5804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5804. Ambulatory surgical facility center shall mean a facility, not a part of a hospital, which as its primary function provides on an outpatient basis surgical procedures not ordinarily performed in a private physician's office to patients who are generally ambulatory but shall not include the private offices or clinics of physicians, podiatrists, or dentists who engage in the lawful practice of surgery in such offices or clinics shall have the definition found in section 71-2017.01.

Sec. 146. That section 71-5810, Revised Statutes Supplement, 1993, be amended to read as follows:

71-5810. Health care facility shall include hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers, including freestanding hemodialysis units, intermediate care facilities, nursing facilities, ambulatory surgical centers, facilities, inpatient facilities owned or controlled by health maintenance organizations, rehabilitation facilities, and other comparable facilities without regard to location or ownership.

Health care facility shall not include (1) Christian Science Sanatoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts, (2) facilities operated solely as part of the professional practice of an independent practitioner, partnership, limited liability company, or professional corporation as defined in section 21-2202, (3) home health agencies, or (4) alcoholism or drug abuse treatment facilities which do not offer medical services under professional supervision.

Sec. 147. That section 71-5831, Revised Statutes Supplement, 1993, be amended to read as follows:

71-5831. (1) The Nebraska Health Care Certificate of Need Act shall not apply to an office or clinic used solely by a practitioner or group of practitioners in the practice of medicine, dentistry, or podiatry, health maintenance organization ambulatory care facilities or to the offices operated solely as part of the private medical practice of an independent practitioner, partnership, limited liability company, or professional corporation except for acquisitions of clinical equipment which costs more than nine hundred thousand dollars, if purchased, and which is to be used to provide services to inpatients of a hospital on more than a temporary basis in the event of a natural disaster, major accident, or equipment failure as described in subsection (3) of this section.

(2) The act shall not apply, through June 30, 1995, to ambulatory surgical centers performing only ophthalmic surgeries not requiring general anesthesia except for acquisitions of clinical equipment as described in subsection (3) of this section or capital expenditures incurred, other than for clinical equipment, in excess of the capital expenditure minimum.

(3) No person shall engage in the purchase, acquisition, or lease of clinical equipment in excess of a base amount of nine hundred thousand dollars as adjusted under this section, if purchased, and which would be located in the State of Nebraska, without having first applied for and received the necessary certificate of need. Notwithstanding any exemption provided by this section, no person shall acquire any clinical equipment which costs more than a base amount of nine hundred thousand dollars as adjusted under this section, if purchased, without having first provided thirty days' written notice to the department. The notice shall describe the equipment, state its cost and

proposed location, and state whether the equipment will be used to provide services to hospital inpatients on more than an occasional and irregular basis. Failure to provide such notice shall require such person to apply for and receive a certificate of need. On October 1 of each year, the department shall adjust the base amount by an amount equal to the percentage change in the Department of Commerce Composite Construction Cost Index from October 1, 1989, through the period most recently reported.

Sec. 148. That section 71-6038, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6038. For purposes of sections 71-6038 to 71-6042, unless the context otherwise requires:

(1) Department shall mean the Department of Health;

(2) Care staff member shall mean a nursing assistant who meets the following qualifications: (a) Has attained the age of eighteen; (b)(i) prior to October 1, 1990, for nursing assistants at all nursing homes, and on and after such date for nursing assistants at intermediate care facilities for the mentally retarded, has completed training approved by the department of at least ninety hours consisting of a basic resident care course of no fewer than twenty hours and an advanced course consisting of no fewer than forty hours in pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator plus at least thirty hours of anatomy and physiology and advanced therapeutics if not included in the basic resident care course or (ii) on or after October 1, 1990, for nursing assistants at all nursing homes other than intermediate care facilities for the mentally retarded (A) has completed training approved by the department of at least one hundred fifteen hours consisting of a basic resident care course of no fewer than seventy-five hours and an advanced course consisting of no fewer than forty hours in pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator or (B) has passed a written or oral examination and competency evaluation deemed to meet the federal seventy-five-hour-training requirement for a nurse aide and successfully completed an advanced course consisting of at least forty hours of pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator; (c) has received a grade of eighty percent or higher in an advanced course test administered by the department, has received a grade of eighty percent or higher in a non-facility-based program approved by the department, or has successfully completed a course in another state which has been approved by the department and has received a grade of eighty percent or higher in an advanced course test administered by the department; and (d) has been approved by the nursing home administrator and the department to administer oral and external medication and oxygen as provided in section 71-6501. An individual who fails the advanced course test administered by the department three times in succession shall retake the advanced course consisting of no fewer than forty hours in pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator before the individual shall be permitted to retake the test. An individual who has been approved by the department as a care staff member shall be retested every three years on medication administration and oxygen administration by means of an oxygen concentrator and shall receive a grade of eighty percent or higher on such test. An individual who has been approved by the department as a care staff member who fails the test on medication administration and oxygen administration by oxygen concentrator three times in succession shall retake the advanced care course of no fewer than forty hours in pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator before the individual shall be allowed to take the test. An individual who has not worked for a period of three years as an approved care staff member shall complete an approved forty-hour pharmacology and medication administration course and receive a grade of eighty percent or higher in such course on an advanced course test administered by the department. To maintain the status of an approved care staff member, such member shall attend, ~~at~~ at least quarterly, twelve hours of inservice programs with topics dealing in medications or medication administration and oxygen administration by means of an oxygen concentrator every three years; and

(3) Nursing assistant shall mean any person, other than a licensed registered or practical nurse, employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents.

(4) External medication shall mean a drug that is to be applied topically to the skin, by drop to the ears, eyes, or nose, or by a rectal suppository; and

(5) Oral medication shall mean a drug that is to be taken by the mouth and shall include sublingual and buccal routes of administration.

Sec. 149. That section 71-6039, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6039. No person shall act as a nursing assistant in a nursing home unless such person:

(1) Is at least sixteen years of age and has not been convicted of a crime involving moral turpitude;

(2) Is able to speak and understand the English language or a language understood by a substantial portion of the nursing home residents; and

(3) Has successfully completed a basic course of training approved by the department for nursing assistants within one hundred twenty days of initial employment in the capacity of a nursing assistant at any nursing home if employment begins after January 1, 1984.

The department may prescribe a curriculum for training nursing assistants and may adopt and promulgate rules and regulations for such courses of training. The content of the courses of training and competency evaluation programs shall be consistent with the requirements of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, federal requirements unless exempted. The department may also approve courses of training developed by assessations, educational institutions, health care facilities, or other entities so long as if such courses of training meet the criteria set out in the rules and regulations of the department requirements of this section. Such courses of training shall include instruction on the responsibility of each nursing assistant to report suspected abuse or neglect pursuant to sections 28-372 and 28-711. Such rules and regulations shall include procedures for nursing homes to Nursing homes may carry out approved courses of training within the nursing home, except that nursing homes may not conduct the competency evaluation part of the program. Such rules and regulations shall provide that the prescribed training The prescribed training shall be administered by a licensed registered nurse.

Prior to October 1, 1990, for nursing assistants at all nursing homes, and on and after such date for nursing assistants at intermediate care facilities for the mentally retarded, such courses of training shall be no less than twenty hours in duration and shall include at least fifteen hours of basic personal care training and five hours of basic therapeutic and emergency procedure training, and on and after October 1, 1990, for nursing assistants at all nursing homes other than intermediate care facilities for the mentally retarded, such courses shall be no less than seventy-five hours in duration.

This section shall not prohibit any facility from exceeding the minimum hourly or training requirements.

Sec. 150. That section 71-6041, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6041. The To protect the health, safety, and welfare of nursing home residents and the public, the Department of Health may shall adopt and promulgate such rules and regulations as are necessary for the effective administration of sections 71-6038 to 71-6042. Such rules and regulations shall be consistent with federal requirements developed by the United States Department of Health and Human Services.

Sec. 151. That section 71-6801, Revised Statutes Supplement, 1992, be amended to read as follows:

71-6801. Sections 71-6801 to 71-6831 shall be known and may be cited as the Clinical Laboratories Certification Act. Sections 71-6802 to 71-6828, 71-6830, and 71-6831 shall become operative October 1, 1995.

Sec. 152. That section 71-7301, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7301. Sections 71-7301 to 71-7318 and section 156 of this act shall be known and may be cited as the First Responders Emergency Rescue Act.

Sec. 153. That section 71-7304, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7304. (1) Application for a certification as a first responder shall be made upon forms prepared by the department and shall contain the applicant's legal name, address, date of birth, and social security number and the licensed ambulance service and first responder service of which the applicant is a member.

(2) In order to qualify for a certification as a first responder, an applicant shall:

(a) Have a current cardiopulmonary resuscitation certification issued within the twelve months preceding his or her application by an organization approved by the division department;

(b)(i) Successfully pass the Nebraska Forty Hour Emergency Medical Services-First Responder Course developed by the department based on the curriculum of the United States Department of Transportation Forty Hour

Emergency Medical Services-First Responder Course conducted by an institution or person reviewed by the department and approved by the board;

(ii) Hold a current certificate of successful completion of the United States Department of Transportation Forty Hour Emergency Medical Services-First Responder Course conducted in a state other than Nebraska which required passage of a written and practical examination; or

(iii) Successfully pass an emergency medical technician-ambulance course conducted by an organization reviewed by the department and approved by the board; and

(c) Be at least eighteen years of age.

(3) The certificate shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year after issuance. A first responder who requests recertification shall present (a) evidence of completion of thirty hours of continuing education in a combination of the skills, knowledge, or clinical experience which are the subject matters of the Nebraska Forty Hour Emergency Medical Services-First Responder Course or (b) certification of such continuing education by a local training officer, rescue captain, fire chief, ambulance chief, head of the first responder service, or municipal official, and (c) maintenance of current cardiopulmonary certification issued by an organization approved by the department. The department shall notify by letter each first responder and the first responder service of record of such first responder at least ninety days prior to the expiration of the certificate.

(4) The department shall within thirty days after receipt of an application for a certificate under this section make such investigation of the applicant as it deems necessary and, if such applicant is deemed competent pursuant to the requirements of this section, shall issue such certificate.

(5) The department shall establish criteria for approval of organizations issuing cardiopulmonary resuscitation certification which shall include criteria for instructors, establishment of certification periods and minimum curricula, and other aspects of training and certification.

Sec. 154. That section 71-7308, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7308. A certified first responder may be certified as a first responder-A/D as provided in sections 71-5101 to 71-5140 and section 132 of this act.

Sec. 155. That section 71-7317, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7317. A first responder service may be certified as a first responder-A/D service as provided in sections 71-5101 to 71-5140 and section 132 of this act.

Sec. 156. The certification of a first responder service shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year after issuance. A first responder service that requests renewal of its certification shall, on forms prescribed by the department, present evidence of a satisfactory rating on the most recent inspection of the service, its equipment, and its records relating to personnel and operation, which inspection shall be conducted by the department, the division, or an authorized representative thereof, as provided in section 71-7313.

Sec. 157. That section 72-1237.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1237.01. As used in the Nebraska State Funds Investment Act, this act shall mean and refer to sections 1-111, 2-115, 2-1503.01, 2-1547, 2-1808, 2-2317, 3-126, 8-1120, 24-704, 35-601, 37-206, 37-428, 39-1323.01, 39-1390, 44-116, 44-707.03, 45-127, 45-603, 48-617, 48-620, 48-621, 54-112, 54-147, 54-150, 54-1173, 55-131, 57-919, 60-1409, 66-499, 68-301, 68-612, 70-1020, 71-1, 147.02, 71-1, 210, 71-222.02, 71-1336, 71-2016, 71-2201, 72-202, 72-1005, 72-1237 to 72-1260, 79-1247.07, 79-1345, 79-1501 to 79-1503.01, 79-1545, 79-1556, 79-1557, 79-2107, 79-3812, 80-111, 80-301, 80-401, 81-528, 81-815.30, 81-845, 81-8, 107, 81-912, 81-1117, 81-1120.22, 81-1278, 81-2019, 81-2022, 82-108.02, 83-150, 83-169, 83-210.01, 84-1301, 84-1305, 84-1308, 84-1309, 85-106, 85-113, 85-122, 85-123.01, 85-168, 85-170, 85-192, 85-320, 85-403, and 85-606.01 and section 75 of this act.

Sec. 158. That section 81-604.02, Revised Statutes Supplement, 1992, be amended to read as follows:

81-604.02. For the purpose of assisting the citizens of the state in receiving benefits under the federal medicare law, the State of Nebraska authorizes the Department of Health to act as the survey and certification agency for the medicare program in Nebraska and to contract to perform such functions with the federal agency responsible for administration of the medicare program and to enter into such other agreements as may be necessary

to implement federal requirements. The department may also contract with the federal agency to perform survey and certification functions in accordance with the federal Clinical Laboratory Improvement Amendments of 1988.

Sec. 159. That section 83-1010, Revised Statutes Supplement, 1992, be amended to read as follows:

83-1010. Mental health professional shall mean a practicing physician licensed to practice medicine in this state under the provisions of section 71-102 or a practicing ~~clinical~~ psychologist licensed to ~~practice~~ engage in the practice of psychology in this state under the provisions of section 71-1,206 as provided in section 76 of this act.

Sec. 160. That section 83-1040, Revised Statutes Supplement, 1992, be amended to read as follows:

83-1040. In order to aid the mental health board in determining the best available treatment alternative for a subject found to be a mentally ill dangerous person in need of board-ordered treatment, the board may request that a predisposition investigation be conducted by a qualified physician or ~~clinical~~ a psychologist licensed to engage in the practice of psychology and report and recommendations be submitted to it by the program administrator, or his or her designee, of the comprehensive community mental health services program in the mental health region in which the proceedings against the subject were held under the Nebraska Mental Health Commitment Act. The board may also require the Director of Medical Services of the Department of Public Institutions or such director's designee to provide such assistance as may be necessary to place the subject of the petition in an appropriate facility or program pursuant to section 71-5003. The board may further request predisposition assistance from the Department of Social Services pursuant to section 68-1202 and any other statutory or other authority which it may have to provide such assistance. The board may finally obtain assistance from any other public or private agency or persons familiar with available treatment resources and qualified to render such assistance. The board may require the subject to submit to reasonable psychiatric and psychological evaluation calculated to assist the mental health board in its choice of the best treatment disposition.

Sec. 161. That section 83-1052, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1052. The subject of a petition or the subject's counsel shall have the right to employ physicians or practicing ~~clinical~~ psychologists licensed in Nebraska to ~~practice~~ engage in the practice of psychology of their choice to independently evaluate the subject's mental condition, testify for and otherwise assist the subject in proceedings under ~~this act~~ the Nebraska Mental Health Commitment Act. If the subject is indigent, only one such person may be employed, except with leave of the mental health board. Any person so employed by a subject declared by the board to be indigent, except a subject represented by the public defender, shall apply to the board for expenses reasonably necessary to the person's effective assistance of the subject and for reasonable fees for services performed by the person in assisting the subject. The board shall then fix reasonable fees and expenses, and the county board shall allow payment to the person in the full amount fixed by the board.

Sec. 162. Sections 162 to 165 of this act shall be known and may be cited as the Alzheimer's Special Care Disclosure Act.

Sec. 163. The Legislature finds and declares that:

(1) Certain nursing homes and related facilities and residential care facilities claim special care for persons who have Alzheimer's disease, dementia, or a related disorder;

(2) It is in the public interest to provide for the protection of consumers regarding the accuracy and authenticity of such claims; and

(3) The provisions of the Alzheimer's Special Care Disclosure Act are intended to require such facilities to disclose the reasons for those claims, require records of such disclosures to be kept, and require the Department of Health to examine the records.

Sec. 164. For the purposes of the Alzheimer's Special Care Disclosure Act, Alzheimer's special care unit shall mean any nursing facility, residential care facility, or assisted-living facility, licensed by the Department of Health, which secures, segregates, or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease, dementia, or a related disorder and which advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer's disease, dementia, or related disorder care services.

Sec. 165. Any facility which offers to provide or provides care for persons with Alzheimer's disease, dementia, or a related disorder by means of an Alzheimer's special care unit shall disclose the form of care or treatment

provided that distinguishes such form as being especially applicable to or suitable for such persons. The disclosure shall be made to the Department of Health and to any person seeking placement within an Alzheimer's special care unit. The department shall examine all such disclosures in the records of the department as part of the facility's license renewal procedure at the time of licensure or relicensure.

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

(1) The Alzheimer's special care unit's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with Alzheimer's disease, dementia, or a related disorder;

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

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

(4) Staff training and continuing education practices;

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

(6) The frequency and types of resident activities;

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

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

Sec. 166. Sections 166 to 180 of this act shall be known and may be cited as the Environmental Lead Hazard Control Act.

Sec. 167. For purposes of the Environmental Lead Hazard Control

Act:

(1) Business entity shall mean a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern which performs a lead abatement project except an entity solely involved as a project designer;

(2) Certificate shall mean an authorization issued by the department permitting an individual person to work in a lead occupation;

(3) Department shall mean the Department of Health;

(4) Director shall mean the Director of Health or his or her designee;

(5) Enclosure shall mean the construction of an airtight, impermeable, permanent barrier around lead-contaminated material to control further contamination from lead;

(6) Industrial facility shall mean a business entity involved in a manufacturing process which produces a product;

(7) Lead abatement shall mean removal, replacement, or encapsulation of deteriorated paint, bare soil, dust, drinking water, or other lead-contaminated material that is or may become readily accessible during a lead abatement project and pose an immediate threat of actual lead exposure to people;

(8) Lead abatement contractor shall mean any person hired by a property owner or resident to perform a lead abatement project;

(9) Lead abatement project shall mean a lead encapsulation project, a lead removal project, a lead-related demolition project, or a lead-related dismantling project but shall not include the activities listed in section 180 of this act;

(10) Lead encapsulation shall mean covering, sealing, painting, resurfacing to make smooth before repainting, or containment of a source of lead;

(11) Lead encapsulation project shall mean activities which include the coating of lead-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing continued exposure to lead from the material but shall not include the repainting of a previously painted lead-contaminated surface which is not damaged primarily for improving the appearance of such surface;

(12) Lead inspector shall mean an individual who is certified by the department to identify and assess the condition of lead-containing material;

(13) Lead occupation shall mean a lead inspector, project designer, supervisor, or worker;

(14) Lead removal project shall mean the physical removal or enclosure of lead-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal or enclosure and shall include the physical removal of lead from a structure or equipment after such structure or equipment has been removed as part of a lead-related dismantling project;

(15) Lead-related demolition project shall mean the razing of all or

a portion of a structure which contains lead-containing materials;

(16) Lead-related dismantling project shall mean the disassembly, handling, and moving of the components of any structure or equipment, which structure or equipment has been coated with lead-containing material, without first removing such material from the structure or from the equipment;

(17) License shall mean an authorization issued by the department permitting a business entity to engage in a lead abatement project;

(18) Project designer shall mean an individual who is certified by the department to formulate plans and write specifications for conducting lead abatement projects;

(19) Project review shall mean review of a licensed business entity's proposed lead abatement project;

(20) Supervisor shall mean an individual who is certified by the department to supervise and direct a lead abatement project in accordance with the Environmental Lead Hazard Control Act and the rules and regulations adopted and promulgated pursuant to the act; and

(21) Worker shall mean an individual who is certified by the department to clean, handle, repair, remove, encapsulate, haul, dispose of, or otherwise work with material contaminated by lead paint in a nonsupervisory capacity.

Sec. 168. Except as otherwise provided in this section, a business entity shall not engage in a lead abatement project unless the business entity holds a license for that purpose. A business entity which (1) only performs lead abatement projects which are less than two hundred sixty linear feet or which are less than one hundred sixty square feet and linear feet in any combination or (2) uses its own employees for a lead abatement project for the purpose of renovating, maintaining, or repairing its own facilities shall not be required to hold a license. Business entities not required to hold a license shall provide a training course to inform the employees of the health and safety aspects of the lead abatement project, including the applicable state standards. The training course shall meet the standards for review courses as prescribed in section 175 of this act and the rules and regulations adopted and promulgated pursuant to such section. The training course shall be available for review and approval upon inspection by the department.

Sec. 169. (1) The department shall administer the Environmental Lead Hazard Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing lead abatement projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For certification or recertification of a worker, not less than thirty-five dollars or more than one hundred dollars;

(c) For certification or recertification of a supervisor, not less than seventy dollars or more than two hundred dollars;

(d) For certification or recertification of an inspector, not less than seventy dollars or more than two hundred dollars;

(e) For certification or recertification of a project designer, not less than seventy dollars or more than two hundred dollars;

(f) For approval of a training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(g) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(h) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual lead abatement project is in progress; and

(1) For a project review of each lead abatement project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three

hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

All fees shall be based on the costs of administering the act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of a lead abatement project the department shall conduct an onsite inspection of each licensed business entity's procedures for performing lead abatement projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for lead abatement projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of lead occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

Sec. 170. To qualify for a license, a business entity shall:

(1) Own or demonstrate immediate and continuing access to and maintain in operable condition modern and effective equipment, as prescribed by the department, which is designed for use in lead abatement projects;

(2) Ensure that each employee or agent of the business entity who will come into contact with lead or who will be present on a lead abatement project is certified as required by the Environmental Lead Hazard Control Act;

(3) Demonstrate to the satisfaction of the department that the business entity is capable of complying with all applicable requirements, procedures, and standards pertaining to lead abatement projects; and

(4) Meet any other standards which the department may deem necessary to protect the health, safety, and welfare of all classes of lead occupations and the general public.

Sec. 171. (1) To apply for a license, a business entity shall submit an application to the department in the form required by the department and shall pay the fee prescribed by the department.

(2) The application shall include, but not be limited to:

(a) The name, address, and nature of the business entity;

(b) A statement that all persons who will engage in any lead abatement project for the licensee will be certified as required by the Environmental Lead Hazard Control Act;

(c) A description of the removal, enclosure, encapsulation, demolition, dismantling, and maintenance methods that the business entity will use;

(d) A description of the procedures that the business entity will use for handling lead-containing waste;

(e) A description of the procedures that the business entity will use in cleaning up the lead abatement project;

(f) The signature of the chief executive officer of the business entity or his or her designee; and

(g) Such other information as may be necessary for the efficient administration and enforcement of the act and for the protection of the health, safety, and welfare of all classes of lead occupations and the general public.

Sec. 172. (1) A license or certificate shall expire on December 31 of the year issued unless it is renewed for one year as provided in this section.

(2) At least thirty days before the license or certificate expires, the department shall send to the licensee or certificate holder at his or her last-known address a renewal notice which states:

(a) The date on which the current license or certificate expires;

(b) The date by which the renewal application must be received by the department for the renewal to be issued and mailed before the license or certificate expires; and

(c) The amount of the renewal fee.

(3) Before the license or certificate expires, the licensee or certificate holder may renew it for an additional one-year period if the licensee or certificate holder:

(a) Is otherwise entitled to be licensed or certificated;



(b) Submits a renewal application to the department in the form required by the department; and

(c) Pays the renewal fee prescribed by the department.

Sec. 173. A business entity excepted from the requirements for licensure by section 168 of this act shall keep a record of each lead abatement project and shall make the record available to the department at any reasonable time. All such records shall be kept for at least ten years. Each record shall include:

(1) The name, address, and certificate number of the individual who supervised the lead abatement project and of each employee or agent who worked on the project;

(2) The location and description of the lead abatement project and the amount of lead-containing material that was removed;

(3) The starting and completion dates of each instance of lead encapsulation project, lead-related demolition project, lead-related dismantling project, maintenance project, or lead removal project;

(4) A summary of the procedures that were used to comply with all applicable standards;

(5) The name and address of each disposal site where the lead-containing waste was deposited; and

(6) Such other information as the department may deem necessary for the efficient administration and enforcement of the Environmental Lead Hazard Control Act and for the protection of the health, safety, and welfare of all classes of lead occupations and the general public.

Sec. 174. (1) An individual person shall not be eligible to work on a lead abatement project unless the person holds a certificate issued by the department.

(2) The department shall issue the following classes of certificates: Worker, supervisor, inspector, and project designer. To qualify for a certificate of a particular class, a person shall have (a) successfully completed a training course approved or administered by the department, (b) been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator, and (c) passed an examination approved or administered by the department with at least the minimum score prescribed by the department.

(3) A certificate or renewal certificate shall be valid for one year from the date of issuance. To qualify for a renewal certificate, the applicant shall meet the requirements of section 175 of this act.

(4) Applications for certificates and renewal certificates shall be submitted to the department on forms prescribed by the department and shall be accompanied by the prescribed fee.

(5) The department may issue a limited certificate to a project designer who does not intend to enter any project design or lead abatement project work site. An applicant for a limited certificate under this subsection shall not be required to comply with the requirements of subdivision (2)(b) of this section. A holder of a limited certificate shall not enter any project design or lead abatement project work site. Such limitation shall be endorsed upon the certificate. Violation of such limitation shall be grounds for disciplinary action against the certificate pursuant to section 179 of this act.

Sec. 175. (1) Any person certified in any of the lead occupations prescribed in section 174 of this act, as a condition for recertification, shall successfully complete an annual review course approved by the department.

(2) Each review course shall be specific for each of the classes of occupations referred to in such section and shall include a review and discussion of changes in federal and state regulations, new developments in lead abatement procedures and techniques specific for that class, and a review of principal aspects of the initial training course. The written examination for each of the classes for recertification shall be approved and may be administered by the department. The passing score shall be determined by the department.

(3) An applicant for approval of a review course shall submit an application for approval of such course on a form provided by the department together with the prescribed fee.

Sec. 176. No state agency, county, city, village, school district, or other political subdivision shall accept a bid in connection with any lead abatement project, except any project exempt under section 168 of this act from a business entity which does not hold a license from the department at the time the bid is submitted.

Sec. 177. (1) A person or business entity which engages in a lead abatement project without a valid license, except as otherwise provided in the

Environmental Lead Hazard Control Act, shall be assessed a civil penalty of not less than five thousand dollars nor more than twenty-five thousand dollars for the first offense and not less than twenty-five thousand dollars nor more than one hundred thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(2) A person who engages in a lead occupation without a valid certificate, except as otherwise provided in the act, shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars for the first offense and not less than one thousand dollars nor more than fifteen thousand dollars for the second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(3) Any person or business entity which knowingly engages in a lead abatement project but which uses employees who do not hold certificates shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars for the first offense and not less than five thousand dollars nor more than ten thousand dollars for a second or subsequent offense. Each day a violation continues shall constitute a separate offense.

(4) The civil penalties prescribed in subsections (1), (2), and (3) of this section shall be assessed in a civil action brought for such purpose by the Attorney General in the district court of the county in which the violation occurred.

(5) A person or business entity which has been assessed a civil penalty under this section and subsequently engages in a lead abatement project or a lead occupation without a valid certificate or license or using employees who do not hold certificates, except as otherwise provided in the act:

(a) For a first offense, shall be guilty of a Class I misdemeanor;  
and

(b) For a second or subsequent offense, shall be guilty of a Class IV felony.

Sec. 178. Upon the request of the department, the Attorney General or appropriate county attorney shall institute without delay an action in the name of the state for proceedings appropriate against any business entity or person to restrain or prevent any violation of the Environmental Lead Hazard Control Act or of any rules and regulations adopted and promulgated pursuant to the act.

Sec. 179. (1) A license or certificate under the Environmental Lead Hazard Control Act may be denied, refused renewal, suspended, or revoked if the applicant, licensee, or certificate holder violates any of the provisions of the Environmental Lead Hazard Control Act, fraudulently or deceptively obtains or attempts to obtain a license or certificate, fails at any time to meet the qualifications for a license or certificate, fails to comply with rules and regulations adopted and promulgated pursuant to the act, fails to meet any applicable state standard for lead abatement projects, or employs or permits an uncertified person to work in a lead occupation.

(2) In addition to the disciplinary actions provided for in subsection (1) of this section, the department may assess a civil penalty of not less than one thousand dollars nor more than three thousand dollars for each offense committed by any person or business entity licensed under the act or not less than one hundred dollars nor more than five thousand dollars for each offense committed by a person certified under the act for violation of the act or any rule or regulation adopted and promulgated thereto. Each day a violation continues shall constitute a separate offense.

(3) Whenever the department determines to deny, refuse to renew, suspend, or revoke a license or certificate or assess a civil penalty, it shall send to the applicant, licensee, or certificate holder a notice setting forth the particular reasons for the determination. The denial, suspension, refusal to renew, revocation, or assessment of a civil penalty shall become final thirty days after the mailing of the notice unless the applicant, certificate holder, or licensee gives written notice to the department of a desire for a hearing. If a hearing is requested, the applicant, certificate holder, or licensee shall be given a hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination shall be affirmed, modified, or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based shall be sent by certified mail to the applicant, certificate holder, or licensee. The decision shall become a final decision of the department and may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

(4) Hearings held pursuant to this section shall be held in accordance with the Administrative Procedure Act.

(5) Any civil penalty assessed and unpaid under the Environmental

Lead Hazard Control Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days of receipt, remit any collected civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 180. The Environmental Lead Hazard Control Act shall not apply to (1) any activities physically performed by a homeowner, a member of the homeowner's family, or an unpaid volunteer on or in the homeowner's residential property of four units or less, (2) any activities performed within the plant boundaries of an industrial facility as a normal and customary part of the facility's operations, which activities are subject to regulation under federal or state worker safety and health requirements, or (3) any activities of a public power district or public power and irrigation district organized pursuant to Chapter 70, article 6, any rural power district organized pursuant to Chapter 70, article 8, any municipal utility organized pursuant to Chapter 15, article 2, or any metropolitan utilities district operated pursuant to Chapter 14, article 21, or the activities of any employee of such district or utility, which activities are subject to regulation under federal or state worker safety and health requirements.

Sec. 181. That section 115, Legislative Bill 1223, Ninety-third Legislature, Second Session, 1994, be amended to read as follows:

Sec. 115. (1) The department shall grant or deny an application for a certificate of public advantage within ninety days after the date of filing of the application, not including days the application is deemed to be incomplete. The decision shall be in writing and set forth the basis for the decision. The department shall furnish a copy of the decision to the applicants, the Attorney General, and any intervenor.

(2) If the department grants the application, the parties shall have forty-five days after the date of receipt of the department's decision to submit an executed written copy of the cooperative agreement which shall be in accordance with the terms and conditions set out in the letter of intent and the application. The department shall review the executed written copy of the cooperative agreement and, if it is in accordance with the terms and conditions set out in the letter of intent and the application, the department shall issue a certificate of public advantage for the cooperative agreement.

(3) If the applicants desire to contest the denial or the intervenors desire to contest the granting of an application, they shall, within ten days after receipt of the notice of denial or within ten days after the granting of an application, send a written request to the department for a hearing under sections 84-913 and 84-915.

(4) A denial or granting by the department of an application or a termination of a certificate of public advantage under section 117 of this act may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 182. Sections 182 to 189 of this act shall be known and may be cited as the Emergency Box Drug Act.

Sec. 183. For purposes of the Emergency Box Drug Act:

(1) Authorized personnel shall mean any medical doctor, doctor of osteopathy, registered nurse, licensed practical nurse, pharmacist, or physician's assistant;

(2) Department shall mean the Department of Health;

(3) Drug shall mean any prescription drug or legend drug defined under section 71-1,142, any nonprescription drug as defined under section 71-1,142, any controlled substance as defined under section 28-405, or any device as defined under section 71-1,142;

(4) Emergency box drugs shall mean drugs required to meet the immediate therapeutic needs of patients when the drugs are not available from any other authorized source in time to sufficiently prevent risk of harm to such patients by the delay resulting from obtaining such drugs from such other authorized source;

(5) Institution shall mean a skilled nursing facility, an intermediate care facility, an intermediate care facility for the mentally retarded, and a nursing facility, as such terms are defined under section 71-2017.01;

(6) Institutional pharmacy shall mean the physical portion of an institution engaged in the compounding, dispensing, and labeling of drugs which is operating pursuant to a permit issued by the Department of Health under section 71-1,147.03;

(7) Multiple dose vial shall mean any bottle in which more than one dose of a liquid drug is stored or contained; and

(8) Supplying pharmacist shall mean the pharmacist in charge of an

institutional pharmacy or a pharmacist who provides emergency box drugs to an institution pursuant to the Emergency Box Drug Act. Supplying pharmacist shall not include any agent or employee of the supplying pharmacist who is not a pharmacist.

Sec. 184. (1) Each institutional pharmacy shall be directed by a pharmacist, referred to as the pharmacist in charge as defined in section 71-1.142 who is licensed to engage in the practice of pharmacy in this state.

(2) For an institution that does not have an institutional pharmacy or during such times as an institutional pharmacy may be unattended by a pharmacist, drugs may be administered to residents of the institution by authorized personnel of the institution from the contents of emergency boxes located within such facility if such drugs and boxes meet all of the following requirements:

(a) All emergency box drugs shall be provided by and all emergency boxes containing such drugs shall be sealed by a supplying pharmacist with the seal on such emergency box to be of such a nature that it can be easily identified if it has been broken;

(b) Emergency boxes shall be stored in a medication room or other secured area within the institution. Only the supplying pharmacist or authorized personnel of the institution shall obtain access to such room or secured area, by key or combination, in order to prevent unauthorized access and to ensure a proper environment for preservation of the emergency box drugs;

(c) The exterior of each emergency box shall be labeled so as to clearly indicate that it is an emergency box for use in emergencies only. The label shall contain a listing of the drugs contained in the box, including the name, strength, route of administration, quantity, and expiration date of each drug, and the name, address, and telephone number of the supplying pharmacist;

(d) The expiration date of an emergency box shall be the earliest date of expiration of any drug contained in the box;

(e) All emergency boxes shall be inspected by the supplying pharmacist or another pharmacist designated by the supplying pharmacist at least once every thirty days to determine the expiration date and quantity of the drugs in the box. Every inspection shall be documented and the record retained by the institution for a period of two years;

(f) An emergency box shall not contain any multiple dose vials and shall not contain more than ten drugs which are controlled substances; and

(g) All drugs in emergency boxes shall be in the original manufacturer's containers or shall be repackaged by the supplying pharmacist and shall include the manufacturer's name, lot number, drug name, strength, dosage form, NDC number, route of administration, and expiration date on a typewritten label. Any drug which is repackaged shall contain on the label the calculated expiration date. For purposes of the Emergency Box Drug Act, the calculated expiration date shall not be greater than twenty-five percent of the time between the date of the repackaging and the expiration date of the bulk container or six months from the date of repackaging, whichever is shorter.

Sec. 185. (1) The supplying pharmacist and the medical director and quality assurance committee of the institution shall jointly determine the drugs, by identity and quantity, to be included in the emergency boxes. Such drugs shall then be approved in advance of placement in emergency boxes by the Board of Examiners in Pharmacy, unless such drugs are included on a general list of drugs previously approved by the Board of Examiners in Pharmacy for use in emergency boxes. The Board of Examiners in Pharmacy may adopt a general list of drugs to be included in emergency boxes. The supplying pharmacist shall maintain a list of emergency box drugs in the pharmacy of the supplying pharmacist which is identical to the list on the exterior of the emergency box and shall make such list available to the department upon request. The supplying pharmacist shall obtain a receipt upon delivery of the emergency box to the institution signed by the director of nursing of the institution which acknowledges that the drugs initially placed in the emergency box are identical to the initial list on the exterior of the emergency box. The receipt shall be retained by the supplying pharmacist for a period of two years.

(2) Except for the removal of expired drugs as provided in subsection (4) of this section, drugs shall be removed from emergency boxes only pursuant to a valid prescription order. Whenever access to the emergency box occurs, the valid prescription order and proof of use shall be provided to the supplying pharmacist and shall be recorded on the resident's medical record by authorized personnel of the institution. Removal of any drug from an emergency box by authorized personnel of the institution shall be recorded on a form showing the name of the resident who received the drug, his or her

room number, the name of the drug, the strength of the drug, the quantity used, the dose administered, the route of administration, the date the drug was used, the time of usage, the disposal of waste, if any, and the signature of the authorized personnel. The form shall be maintained at the institution for a period of twenty-four months from the date of removal with a copy of the form to be provided to the supplying pharmacist.

(3) Whenever an emergency box is opened the supplying pharmacist shall be notified by the charge nurse or the director of nursing of the institution within twenty-four hours and the supplying pharmacist or another pharmacist designated by the supplying pharmacist shall restock and refill the box, reseal the box, and update the drug listing on the exterior of the box within seventy-two hours.

(4) Upon the occurrence of the expiration date of any drug in the emergency box, the supplying pharmacist or another pharmacist designated by the supplying pharmacist shall replace the expired drug, reseal the box, and update the drug listing on the exterior of the box.

(5) Immediately upon replacement of an expired drug by the supplying pharmacist or another pharmacist designated by the supplying pharmacist, the expired drug being replaced shall be immediately destroyed within the institution by the supplying pharmacist or another pharmacist designated by the supplying pharmacist, with such destruction witnessed and documented by authorized personnel of the institution. Records pertaining to the documentation of expired drugs which are destroyed by the supplying pharmacist or another pharmacist designated by the supplying pharmacist shall be maintained at the institution for a period of twenty-four months from the date of such destruction, with a copy of such records to be provided to the supplying pharmacist. Drugs in emergency boxes shall be considered inventory of the pharmacy of the supplying pharmacist until such time as they are removed for administration to a resident of the institution or pursuant to subsection (4) of this section.

(6) Authorized personnel of the institution shall examine the emergency boxes once every twenty-four hours and shall immediately notify the supplying pharmacist upon discovering evidence of tampering with any emergency box. Proof of examination by authorized personnel of the institution shall be recorded and maintained at the institution for a period of twenty-four months from the date of examination.

(7) The supplying pharmacist and the medical director and quality assurance committee of the institution shall jointly establish written procedures for the safe and efficient distribution of emergency box drugs.

Sec. 186. The department shall have (1) the authority to inspect any emergency box and (2) access to the records of the supplying pharmacist and the institution for inspection. Refusal to allow the department to inspect an emergency box or to have access to records shall be grounds for a disciplinary action against the supplying pharmacist or the license of the institution.

Sec. 187. In no event shall a supplying pharmacist return drugs placed in an emergency box to the institutional pharmacy or to his or her pharmacy.

Sec. 188. (1) The department may limit, suspend, or revoke the authority of a supplying pharmacist to maintain emergency boxes in an institution for any violation of the Emergency Box Drug Act. The department may limit, suspend, or revoke the authority of an institution to maintain an emergency box for any violation of the act. The taking of such action against the supplying pharmacist or institution or both shall not prohibit the department from taking other disciplinary actions against the supplying pharmacist or the institution.

(2) If the department determines to limit, suspend, or revoke the authority of a supplying pharmacist to maintain emergency boxes in an institution or to limit, suspend, or revoke the authority of an institution to maintain an emergency box, it shall send to the supplying pharmacist or institution a notice of such determination. The 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. The limitation, suspension, or revocation shall become final thirty days after receipt of the notice unless the supplying pharmacist or institution, within such thirty-day period, requests a hearing in writing. The supplying pharmacist or institution shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed, set aside, or modified, and a copy of such decision setting forth the findings of facts and the particular reasons on which it is based shall be sent to the supplying

pharmacist or institution. The parties may appeal the final decision in accordance with the Administrative Procedure Act. Witnesses may be subpoenaed by either party and shall be allowed a fee at the statutory rate.

(3) The procedure governing hearings authorized by the Emergency Box Drug Act shall be in accordance with rules and regulations adopted and promulgated by the department.

(4) The supplying pharmacist or institution shall not maintain an emergency box after his, her, or its authority to maintain such box has been revoked or during the time such authority has been suspended. If the authority is suspended, the suspension shall be for a definite period of time. Such authority shall be automatically reinstated on the expiration of such period. If such authority has been revoked, such revocation shall be permanent, except that at any time after the expiration of two years, application for reinstatement of authority may be made to the department. Any such application for reinstatement by a supplying pharmacist may not be received by the department unless accompanied by a written recommendation of reinstatement by the Board of Examiners in Pharmacy.

(5) Any person who commits any of the acts prohibited by the act shall be guilty of a Class II misdemeanor. The department may maintain an action in the name of the state against any person for maintaining an emergency box in violation of the act. Each day a violation continues shall constitute a separate violation.

Sec. 189. Any emergency box containing a controlled substance which is maintained at an institution shall be exempt from the provisions of subdivisions (4)(g) and (h) of section 28-414.

Sec. 190. Sections 1, 2, 6, 7, 9, 14, 16, 18, 19, 23, 46, 55, 63 to 93, 95 to 109, 157, 159 to 161, and 192 of this act shall become operative on September 1, 1994. Sections 166 to 180 of this act shall become operative on October 1, 1995. Sections 21, 56, 113, 115 to 121, 145 to 147, 181, 190, 191, 193, and 195 shall become operative on their effective date. The other sections of this act shall become operative three calendar months after the adjournment of this legislative session.

Sec. 191. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 192. That original sections 11-201, 43-129, 43-146.03, 71-1,208, 71-1,210, 71-1,220, 72-1237.01, and 83-1052, Reissue Revised Statutes of Nebraska, 1943, sections 71-1,103, 71-1,209, 83-1010, and 83-1040, Revised Statutes Supplement, 1992, and sections 27-504, 71-101, 71-107, 71-110, 71-114, 71-116, 71-139.02, 71-162, 71-1,305, 71-1,307, 71-1,310 to 71-1,312, 71-1,314, 71-1,319 to 71-1,321, 71-1,325, 71-1,326, 71-1,328 to 71-1,330, and 71-1,335, Revised Statutes Supplement, 1993, and also sections 44-513.01, 71-1,206, 71-1,211 to 71-1,214, 71-1,218, 71-1,219, and 71-1,221 to 71-1,226, Reissue Revised Statutes of Nebraska, 1943, and section 71-1,207, Revised Statutes Supplement, 1993, are repealed.

Sec. 193. That original sections 71-2024, 71-2049, 71-2065, 71-2074 to 71-2076, and 71-5804, Reissue Revised Statutes of Nebraska, 1943, section 71-1,104, Revised Statutes Supplement, 1992, sections 71-131, 71-2017.01, 71-2073, 71-5810, and 71-5831, Revised Statutes Supplement, 1993, and section 115, Legislative Bill 1223, Ninety-third Legislature, Second Session, 1994, are repealed.

Sec. 194. That original sections 28-407, 71-103 to 71-106, 71-111, 71-139, 71-145, 71-149, 71-151, 71-152, 71-156, 71-157, 71-161.04 to 71-161.06, 71-161.10, 71-161.14, 71-161.15, 71-161.17, 71-163, 71-164, 71-166, 71-170, 71-172, 71-1,132.14, 71-1,132.16, 71-1,132.49, 71-1,234, 71-3,173, 71-6038, 71-6039, and 71-6041, Reissue Revised Statutes of Nebraska, 1943, sections 28-405, 28-409, 44-2851, 71-108, 71-147.02, 71-150, 71-154, 71-155, 71-161.02, 71-161.07, 71-161.09, 71-168, 71-171.01, 71-171.02, 71-1,132.29, 71-507, 71-3710, 71-5101, 71-5109, 71-5113, 71-5115, 71-5119, 71-5120, 71-5124, 71-5125, 71-5130, 71-5132, 71-5134, 71-5135, 71-5137, 71-5139, 71-5140, 71-5141, 71-5145, 71-5151, 71-5155, 71-5165, 71-6801, 71-7301, 71-7304, 71-7308, 71-7317, and 81-604.02, Revised Statutes Supplement, 1992, and sections 71-118, 71-147, 71-148, 71-1,142, 71-1,147.34, 71-2023, and 71-5102, Revised Statutes Supplement, 1993, and also Laws 1990, LB 551, section 32, as amended by Laws 1992, LB 1019, section 127, and Laws 1993, LB 536, section 124, are repealed.

Sec. 195. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.