LEGISLATIVE BILL 536

Approved by the Governor June 10, 1993

Introduced by Health and Human Services Committee:
Wesely, 26, Chairperson; Byars, 30; Day, 19;
Dierks, 40; Horgan, 4; Rasmussen, 20; Vrtiska, 1

AN ACT relating to public health and welfare; to amend sections 71-1,132.47, 71-1,147, 71-1,147.09, 71-1,147.10, 71-1,147.13, 71-1,147.33, 71-1,232, 71-646, 71-647, 71-1717, 71-1721.04, 71-1721.06, 71-1722, 71-1724, 71-1724.01, 71-1735, 71-1743, 71-1753, 71-1755, 71-1757, 71-1758, 71-1759, 71-2407, 71-3501, 71-3503, 71-3507, 71-3508.03, 71-4603, 71-4604, 71-4606, 71-4608 to 71-4611, 71-4613, 71-4614, 71-4616 to 71-4620, 71-6201, and 71-6203, Reissue Revised Statutes of Nebraska, 1943, and sections 71-101, 71-147, 71-148, 71-168.01, 71-1,142, 71-602, 71-604.05, 71-612, 71-648, 71-2017.01, 71-4604.01, 71-5668, 71-7101, 79-444.01, 81-642 to 81-645, 81-647 to 81-649, 81-655, 81-656, 81-659, and 81-660, Revised Statutes Supplement, 1992, and Laws 1990, LB 551, section 32, as amended by Laws 1992, LB 1019, section 127; to provide for release of medical record and health information as prescribed; to adopt the Childhood Lead Poisoning Prevention Act and the Licensed Practical Nurse-Certified Act; to provide, change, and eliminate definitions; to change and provide penalties; to provide for and change provisions relating to coverage of prescription drugs, refilling of prescriptions, pharmacists and supportive pharmacy personnel, disciplinary actions relating to pharmacy permits, licensees, certificate holders, and registrants, investigational records and reports, prospective drug utilization review, pharmacy patient counseling, temporary certificates to practice respiratory care, confidentiality and release of information on certificates filed with or issued by the Bureau of Vital Statistics, charges for review of such certificates, the birth defects registry, nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, the Council of Certified Nurse Midwifery, radiation control, manufactured homes, recreational vehicles, payments for practice in a designated medical profession shortage area, the cancer registry, the brain injury registry, and immunization requirements; to provide for licensing of persons and businesses engaged in radon measurement and mitigation, directed review under the Nebraska Regulation of Health

Professions Act, and confidentiality of certain information under the Critical Incident Stress Debriefing Act; to provide duties for the Department of Health; to eliminate provisions relating to certain laboratory reports, preceptorship programs for nurse practitioners, a termination date, and a penalty; to provide for and change operative dates and a termination date; to harmonize provisions; to repeal the original sections, and also sections 71-1713, 71-1718, 71-1719, 71-1720, and 71-6230, Reissue Revised Statutes of Nebraska, 1943, and sections 71-525 and 81-649.01, Revised Statutes Supplement, 1992; and to declare an emergency.

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

Section 1. The Legislature finds that there is a need to establish a framework for consistent release of medical record and health information from the many registries and data bases the Department of Health maintains for the State of Nebraska. The purpose of the release of data is to encourage research which will protect the health and safety of the citizens of Nebraska by assisting in the prevention, cure, and control of specific diseases or injuries.

Sec. 2. For purposes of sections 1 to 13 of this act:

(1) Aggregate data shall mean data contained in the medical record and health information registries maintained by the department which is compiled in a statistical format and which does not include patient-identifying data;

(2) Approved researcher shall mean an individual or entity which is approved by the department pursuant to section 4 of this act to obtain access to data contained in the medical record and health information registries maintained by the department to assist in the scientific or medical research for the prevention, cure, or control of a disease or injury process;

(3) Case-specific data shall mean data contained in the medical record and health information registries concerning a specific individual other than patient-identifying data;

(4) Department shall mean the Department of Health;

(5) Medical record and health information registry shall mean the system of reporting certain medical conditions occurring in this state, as prescribed by law, which are reported and recorded in order to achieve the goals of prevention, cure, and control through research and education, and shall include the birth defects registry established in section 71-646, the cancer registry established in sections 81-642 to 81-650, and the brain injury registry established in sections 81-653 to 81-661;

(6) Patient-identifying data shall mean the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient; and

(7) Research shall mean study specific to the diseases or injuries for which access to data is requested and which is dedicated to the

prevention, cure, or control of the diseases or injuries.

Sec. 3. To implement the intent and purposes of sections 1 to 13 of this act, the department shall:

(1) Adopt and promulgate necessary rules and regulations, including rules and regulations for the frequency and form of information submitted and for standards and procedures for approving researchers;

(2) Execute contracts that the department considers necessary; and

(3) Receive and record the data obtained from the medical and health information records of persons with particular diseases or injuries.

Sec. 4. The department may approve an individual or entity to be an approved researcher upon application and proof satisfactory to the department that the applicant is a qualified researcher, that the data will be used for bona fide scientific or medical research for prevention, cure, or control of certain diseases or injuries, and that the applicant will maintain the confidentiality and security of data obtained. The application shall contain, but not be limited to, the following information:

(1) The qualifications of the applicant and of the principal investigator, if other than the applicant, including education, experience, prior publications, and recommendations of professional colleagues who have knowledge and experience of scientific or medical research;

(2) The purpose of the research project, a summary of the project, and the anticipated time of completion of such project;

(3) The location where the research project will be conducted and the equipment, personnel, and other resources available to the applicant to carry out the project;

(4) The identity of the individual or entity funding the research project, a description of the availability of funds for the research project, and any conditions on the receipt or continuation of such funding;

(5) The specific data requested and a description of the use to be made of such data and, if patient-identifying data is requested, a substantiation of the need for access to such patient-identifying data;

(6) A description of the measures to be taken to secure the data and maintain the confidentiality of such data during the research project, for disposal of the data upon completion of the study, and to assure that the results of the study will not divulge or make public information that will disclose the identity of any individual patient;

(7) If contact with a patient or patient's family is planned or expected, substantiation of the need for such contact and a description of the method to be used to obtain permission from the patient's physician for such contact; and

(8) Such additional information as the department determines to be necessary to assure that release of data to the applicant is appropriate and will further the purpose of sections 1 to 13 of this act or the laws governing the specific registry.

Sec. 5. Medical records provided to the department for use

in its medical record and health information registries shall be classified for release according to the following categories:

(1) Class I data shall be confidential with release only in aggregate data reports created by the department on a periodic basis, usually specified in the statutes creating the registry. These reports shall be public documents;

(2) Class II data shall be confidential with release only in aggregate data reports created by the department at the request of an individual. These reports shall be public documents;

(3) Class III data shall be confidential with release of patient-identifying data to approved researchers for specific research projects. The approved researcher shall maintain the confidentiality of the information; and

(4) Class IV data shall be confidential with release of case-specific data to approved researchers for specific research projects. The approved researcher shall maintain the confidentiality of the data.

Sec. 6. All case-specific and patient-identifying data obtained from medical records of individual patients shall be for the confidential use of the department and the public health agencies and approved researchers that the department determines may view such records in order to carry out the intent of sections 1 to 13 of this act. Such information shall be privileged and shall not otherwise be divulged or made public so as to disclose the identity of an individual whose medical records and health information have been used for acquiring such data. Aggregate data collected shall be open and accessible to the public, and such information shall not be considered medical records pursuant to section 84-712.05. The cost of data retrieval and data processing shall be paid by the data requestor.

Sec. 7. All case-specific and patient-identifying data furnished and any findings or conclusions resulting from such data shall be privileged communications which may not be used or offered or received in evidence in any legal proceeding of any kind, and any attempt to use or offer any such information, findings, conclusions, or any part thereof, unless waived by the interested parties, shall constitute prejudicial error resulting in a mistrial in any such proceeding.

Sec. 8. The approved researcher shall submit the reports or results of the research project to the department. The department shall review such reports or results and shall prohibit publication of confidential information. The approved researcher shall acknowledge the department and its medical record and health information registries in any publication in which information obtained from the medical record and health information registries is used.

Sec. 9. Except as otherwise provided by the law governing a specific medical record and health information registry, the department may release information contained in a registry to official public health departments and agencies as follows:

(1) Upon request by an official local health department within the State of Nebraska, the department may release such data

pertaining to residents within the jurisdiction of the requesting local health department. The official local health department shall not contact patients using data received under sections 1 to 13 of this act without approval by the department of an application made pursuant to section 4 of this act; and

(2) Upon approval of an application by federal, state, or local official public health agencies made pursuant to such section, the department may release such data.

The receiving agency shall not further disclose such data to any third party but may publish aggregate statistical reports, except that no patient-identifying data shall be divulged, made public, or released to any public or private person or entity. The receiving agency shall comply with the patient contact provisions of sections 1 to 13 of this act. The receiving agency shall acknowledge the department and its medical record and health information registries in any publication in which information obtained from the medical record and health information registries is used.

Sec. 10. Any person who receives or releases information in the form and manner prescribed by sections 1 to 13 of this act and the rules and regulations adopted and promulgated pursuant to such sections shall not be civilly or criminally liable for such receipt or release.

Sec. 11. Nothing in sections 1 to 13 of this act shall be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains data pursuant to such sections shall contact a patient or such patient's family without first obtaining the permission of a physician actively involved in the care of such patient.

Sec. 12. Any private or public entity, individual, or approved researcher who wrongfully discloses confidential data obtained from the medical record and health information registries or uses such information with the intent to deceive shall be guilty of a Class IV misdemeanor for each offense.

Sec. 13. The department shall adopt and promulgate rules and regulations to implement sections 1 to 12 of this act.

Sec. 14. Sections 14 to 18 of this act shall be known and may be cited as the Childhood Lead Poisoning Prevention Act.

Sec. 15. The Legislature hereby finds and declares that:

(1) Childhood environmental lead poisoning constitutes a serious threat to the public health of the children of this state and the identification, treatment, and prevention of childhood environmental lead poisoning is a goal of the people;

(2) The effectiveness of distinguishing and abating lead hazards in the environment and thereby providing a safer environment to prevent childhood lead poisoning has been well documented;

(3) Childhood environmental lead poisoning prevention programs have had a tremendous impact on reducing the occurrence of lead poisoning in the United States;

(4) The United States Department of Health and Human

Services, Public Health Service, has as its Healthy People 2000 objective the identification, treatment, and reduction of childhood environmental lead poisoning; and

(5) There is a national effort to institute environmental lead hazard awareness action plan programs and to provide funds to implement the Healthy People 2000 objective.

Sec. 16. It is the intent of the Legislature that the citizens of Nebraska benefit by participation in national efforts to take innovative action to provide lead analysis of our children and the environment in which they are cared for, live, and learn.

Sec. 17. The Department of Health may participate in national efforts and may develop a statewide environmental lead hazard awareness action plan which is comprehensive in scope and reflects contributions from a broad base of providers and consumers. In order to implement the statewide environmental lead hazard awareness action plan, the department may:

(1) Actively seek the participation and commitment of the public, health care professionals and facilities, the educational community, and community organizations in a comprehensive program to ensure that the state's children are appropriately protected from environmental lead hazards;

(2) Apply for and receive public and private awards to develop and administer a statewide comprehensive environmental lead hazard awareness action plan program;

(3) Provide environmental lead hazard information and education to the public, parents, health care providers, and educators to establish and maintain a high level of awareness;

(4) Assist parents, health care providers, and communities in developing systems, including demonstration and pilot projects, which emphasize the protection of children from environmental lead poisoning and the use of private practitioners; and

(5) Evaluate the effectiveness of these statewide efforts, identify children at special risk for environmental lead hazard exposure, and report on the activities of the statewide program annually to the Legislature and the citizens of Nebraska.

Sec. 18. The Childhood Lead Poisoning Prevention Act is not intended to create an entitlement to any activities described in the act, and the Department of Health may perform the activities described in the act to the extent funds are available.

Sec. 19. (1) If any insurer authorized to transact the business of health insurance in this state reasonably determines that an insured's utilization of prescription medications has been excessive and has not been medically necessary as defined by the insured's coverage, the insurer may reserve the right to limit such insured to a pharmacy of the insured's choice for obtaining prescription drug benefits. If the insured's coverage is through a preferred provider organization, the insurer or preferred provider organization may limit the insured to a preferred provider pharmacy of the insured's choice. If an insured has been so

limited, the insurer or preferred provider organization shall not be required to provide benefits for prescriptions obtained from any other pharmacy. The insurer or preferred provider organization may require that the insured provide written notification to the insurer or preferred provider organization of the insured's choice of pharmacy.

(2) The action by the insurer or preferred provider organization limiting an insured to one pharmacy of the insured's choice may be effective as of the date specified in a written notice to the insured. Such written notice shall be sent to the insured at his or her last-known address as shown by the records of the insurer or preferred provider organization by certified or registered mail and shall inform the insured that he or she is required to select one pharmacy for obtaining prescription drug benefits. The terms of the written notice shall allow the insured at least seven days to notify the insurer or preferred provider organization of his or her choice of pharmacy.

Sec. 20. Sections 20 to 42 of this act shall be known and may be cited as the Licensed Practical Nurse-Certified Act.

Sec. 21. The purposes of the Licensed Practical Nurse-Certified Act are (1) to provide a means by which licensed practical nurses-certified may perform certain activities related to intravenous therapy and nasogastric tube insertion, (2) to provide for approval of certification courses to prepare licensed practical nurses-certified, and (3) to ensure the health and safety of the general public.

Sec. 22. For purposes of the Licensed Practical Nurse-Certified Act:

(1) Administration shall include observing, initiating, monitoring, discontinuing, maintaining, regulating, adjusting, documenting, assessing, planning, intervening, and evaluating;

(2) Approved certification course shall mean a course for the education and training of a licensed practical nurse-certified which the board has approved;

(3) Board shall mean the Board of Nursing;

(4) Delegation shall mean the decision by a registered nurse to give the responsibility for the performance of an act or procedure to a licensed practical nurse-certified;

(5) Department shall mean the Department of Health;

(6) Direct supervision shall mean that the licensed practitioner or registered nurse shall be in the clinical area and shall retain accountability for patient care;

(7) Initial venipuncture shall mean the initiation of intravenous therapy based on a new order from a licensed practitioner for an individual for whom a previous order for intravenous therapy was not in effect;

(8) Intravenous therapy shall mean the therapeutic infusion or injection of substances through the venous system;

(9) Licensed practical nurse-certified shall mean a licensed practical nurse providing services in a long-term care facility or in a hospital with a licensed bed capacity of fifty beds or less who meets the

standards established pursuant to section 25 of this act and who holds a valid certificate issued by the department pursuant to the act;

(10) Licensed practitioner shall mean any person authorized by state law to prescribe intravenous therapy and nasogastric tube insertion;

(11) Nasogastric tube insertion shall mean the placing of a tube via the nares or mouth into the stomach; and

(12) Pediatric patient shall mean a patient who is younger than eighteen years old and who weighs thirty-five kilograms or less.

Sec. 23. (1) Administration of intravenous therapy or nasogastric tube insertion shall be a responsibility of the registered nurse as ordered by a licensed practitioner.

(2) A registered nurse may delegate the activities identified in section 24 of this act to a licensed practical nurse-certified in keeping with the registered nurse's professional judgment. The registered nurse so delegating shall remain accountable for the application of the nursing process and nursing theory when making the decision to delegate and for supervision.

(3) A licensed practical nurse-certified may, under the direction of a licensed practitioner, perform the activities identified in such section after the licensed practitioner has performed a physical assessment of the patient.

(4) A licensed practitioner shall not direct a licensed practical nurse-certified to perform and a registered nurse shall not delegate to a licensed practical nurse-certified any activities associated with central venous lines except under direct supervision. Activities in central line therapy appropriate to delegate to or direct the licensed practical nurse-certified to perform, including types of central lines and methods of central line access, shall be defined in rules and regulations of the board.

(5) A licensed practitioner or registered nurse need not be on the premises in order for the licensed practical nurse-certified to perform directed or delegated activities except for (a) initial venipuncture for purposes of peripheral intravenous therapy, (b) initial nasogastric tube insertion, and (c) central-line activities.

(6) A licensed practitioner or registered nurse shall be present at least once during each twenty-four-hour interval and more frequently when a significant change in therapy or client condition has occurred to assess the client when the licensed practical nurse-certified is performing the activities identified in section 24 of this act.

Sec. 24. A licensed practical nurse-certified may perform the following activities related to the administration of intravenous therapy and nasogastric tube insertion under the direction of a licensed practitioner or as delegated by a registered nurse:

(1) Calculate the rate of intravenous fluid infusions, except for pediatric patients;

(2) Perform venipuncture, excluding jugular, for purposes of peripheral intravenous therapy, except (a) for pediatric patients or (b) with devices which exceed three inches in length. Direct supervision by a

licensed practitioner or registered nurse shall be required for initial venipuncture for purposes of peripheral intravenous therapy;

(3) Except in the case of a pediatric patient, add medicated solutions which have been commercially prepared or prepared by a pharmacist, licensed practitioner, or registered nurse to intravenous lines. Acceptable methods of administration and medications shall be those for which nursing interventions are routine and predictable in nature related to individual responses and adverse reactions and as defined in rules and regulations of the board;

(4) Flush intravenous ports with heparin solution or saline solution;

(5) Add pain medication solutions which have been commercially prepared or prepared by a pharmacist, licensed practitioner, or registered nurse to a patient-controlled infusion pump if reprogramming of such pump is not required; and

(6) Insert flexible nasogastric tubes that are non-stylet-guided. Direct supervision by a licensed practitioner or registered nurse shall be required for initial nasogastric tube insertion.

Sec. 25. In order to obtain a certificate as a licensed practical nurse-certified, an individual shall meet the following requirements:

(1) Have a current license to practice as a licensed practical nurse in Nebraska;

(2) Have successfully completed an approved certification course within one year before application for certification;

(3) Have satisfactorily passed an examination approved by the board;

(4) Have filed an application with the department on a form prescribed by the department; and

(5) Have paid the applicable fee.

Sec. 26. A certificate to practice as a licensed practical nurse-certified shall be issued by the department to be valid for two years, except that an initial certificate shall expire at the same time as the applicant's license to practice as a licensed practical nurse.

Sec. 27. Certificates for licensed practical nurses-certified shall be renewed as provided for licenses for licensed practical nurses in section 71-1,132.20. To obtain renewal of a certificate, a licensed practical nurse-certified shall complete five hours of continuing education courses approved by the board and submit proof of such in the manner provided by section 71-161.10. Such continuing education courses shall relate to intravenous therapy or nasogastric tube insertion and may be included in the continuing education required under section 71-1,132.52 for renewal of a license as a licensed practical nurse.

Sec. 28. (1) The department with the advice of the board shall prescribe a curriculum for training licensed practical nurses-certified, establish an examination, and adopt and promulgate rules and regulations setting minimum standards for approved certification courses, including faculty qualifications, record keeping, faculty-to-student ratios, and other

aspects of conducting such courses. The department may approve certification courses 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.

(2) An approved certification course shall be no less than forty-eight hours of classroom instruction and shall include a clinical competency component as defined in rules and regulations of the board. Classroom instruction shall include the following: (a) State laws governing the administration of intravenous therapy and nasogastric tube insertion; (b) anatomy and physiology of the circulatory system and the upper gastrointestinal system; (c) pharmacology; (d) fluid and electrolyte balance; (e) procedures and precautions in performing intravenous therapy and nasogastric tube insertion; (f) types of equipment for intravenous therapy and nasogastric tube insertion; (g) actions, interactions, and effects of medications in intravenous therapy; (h) documentation; and (i) other subjects relevant to the administration of intravenous therapy and nasogastric tube insertion. An approved certification course shall be supervised by a registered nurse with a minimum of three years of clinical experience immediately prior to supervision of the course. An educator may be a physician, pharmacist, or other qualified professional. Nothing in this section shall be deemed to prohibit any courses from exceeding the minimum requirements.

Sec. 29. (1) An applicant for approval to conduct a certification course shall file an application on a form prescribed by the department and shall present proof satisfactory to the department that the proposed course meets the requirements of the Licensed Practical Nurse-Certified Act and the rules and regulations adopted and promulgated under the act.

(2) The department may conduct such inspections or investigations of applicants for approval to conduct a certification course and of approved certification courses as may be necessary to ensure compliance with the act and the rules and regulations.

Sec. 30. (1) The department may deny, refuse renewal of, revoke, suspend, or otherwise take disciplinary measures against a certificate to practice as a licensed practical nurse-certified upon the grounds provided in sections 71-147 to 71-161.19 or for violation of the Licensed Practical Nurse-Certified Act or the rules and regulations adopted and promulgated under the act in the manner provided in such sections. The department with the advice of the board shall adopt and promulgate rules and regulations governing the procedures for denial of renewal of the certificate for failure to meet the continuing education requirements.

(2) Any person practicing as a licensed practical nurse-certified who is not certified as such by the department and who possesses a current license to engage in any health profession for which a license is issued by the department may have such license denied, refused renewal, suspended, or revoked or have other disciplinary action taken against him or her by the department pursuant to the provisions of the

Uniform Licensing Law relating to such profession.

(3) Any person who violates the Licensed Practical Nurse-Certified Act may have his or her license to practice as a licensed practical nurse denied, refused renewal, suspended, or revoked or have other disciplinary action taken against him or her by the department pursuant to the provisions of the Uniform Licensing Law.

Sec. 31. The department may deny, revoke, or suspend or otherwise take disciplinary measures against an approved certification course in accordance with section 71-155 for violation of the Licensed Practical Nurse-Certified Act or the rules and regulations adopted and promulgated under the act.

Sec. 32. (1) A person whose certificate to practice as a licensed practical nurse-certified has been suspended or limited may apply for reinstatement of such certificate at any time in the manner provided in sections 71-161.04 to 71-161.07.

(2) A person whose certificate has been revoked for any reason specified in sections 71-147 to 71-148 or for a violation of the Licensed Practical Nurse-Certified Act, except for nonpayment of fees or failure to meet the continuing education requirements, may apply for reinstatement after two years has elapsed from the date of revocation in the manner provided in sections 71-161.04 to 71-161.07.

Sec. 33. A course provider whose approval to conduct a certification course has been suspended or revoked may apply for reinstatement at such time as the certification course meets the requirements of the Licensed Practical Nurse-Certified Act and rules and regulations adopted and promulgated under the act and will continue to meet such requirements.

Sec. 34. All fees received pursuant to the Licensed Practical Nurse-Certified Act shall be processed as provided in sections 71-1,132.04 to 71-1,132.53.

Sec. 35. The department shall set the fees to be paid under the Licensed Practical Nurse-Certified Act as follows:

(1) For an initial certificate to practice as a licensed practical nurse-certified, not less than twenty dollars and not more than two hundred dollars;

(2) For renewal of a certificate to practice as a licensed practical nurse-certified, not less than twenty dollars and not more than seventy-five dollars;

(3) For approval of a certification course to be offered by an approved school of professional or practical nursing, not less than one hundred fifty dollars and not more than three hundred dollars; and

(4) For approval of a certification course to be offered by a person other than an approved school of professional or practical nursing, not less than two hundred dollars and not more than one thousand dollars.

Sec. 36. The board with the approval of the department shall adopt and promulgate rules and regulations to carry out the Licensed Practical Nurse-Certified Act. The board shall:

(1) Approve an examination;

(2) Establish the passing score for the examination;

(3) Establish procedures for examination security; and

(4) Establish the number of times the applicant may fail the examination before he or she must retake the certification course.

Sec. 37. The Licensed Practical Nurse-Certified Act shall not prohibit the performance of the activities identified in section 24 of this act by an uncertified person if performed (1) in an emergency situation, (2) by a legally qualified person from another state employed by the federal government and performing official duties in this state, or (3) by a person enrolled in an approved certification course if performed as part of that approved certification course.

Sec. 38. An individual certified to practice as a licensed practical nurse-certified may use the title licensed practical nurse-certified and the abbreviation L.P.N.-C.

Sec. 39. (1) If a licensed practical nurse-certified does not have a current license or has had his or her license to practice as a licensed practical nurse denied, refused renewal, suspended, or revoked, his or her certificate to practice as a licensed practical nurse-certified shall be considered lapsed.

(2) If a licensed practical nurse-certified renews his or her license to practice as a licensed practical nurse but does not renew his or her certificate, such certificate shall be considered lapsed.

Sec. 40. When a certificate to practice as a licensed practical nurse-certified lapses, the right of the individual to represent himself or herself as a certificate holder and to practice the activities for which a certificate is required shall terminate. To restore the certificate such individual shall be required to meet the requirements for certification which are in effect at the time that he or she wishes to restore the certificate.

Sec. 41. Any person practicing as or holding himself or herself out as a licensed practical nurse-certified who is not currently certified as such by the department may be restrained by temporary and permanent injunctions.

Sec. 42. Any person violating any of the provisions of the Licensed Practical Nurse-Certified Act shall be guilty of a Class III misdemeanor for the first offense and shall be guilty of a Class II misdemeanor for the second offense.

Sec. 43. That section 71-101, Revised Statutes Supplement, 1992, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,294, 71-1325 to 71-1354, and 71-2801 to 71-2822 and sections 49 and 55 to 58 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 ~~the masculine~~ 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. 44. That section 71-147, Revised Statutes Supplement, 1992, 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; ~~, which term shall include all acts specified in section 71-148 and 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~~;

(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) ~~Acts or offenses for which disciplinary measures may be taken against a registration for controlled substances under~~ Violation of the Uniform Controlled Substances Act; or

(18) Purchasing or receiving any prescription drug from any source in violation of the Wholesale Drug Distributor Licensing 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 as set out in section 71-110.

Sec. 45. That section 71-148, Revised Statutes Supplement, 1992, be amended to read as follows:

71-148. For ~~the purpose~~ purposes of section 71-147, ~~unprofessional conduct shall include any of the following acts~~ 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;

(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;

(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; ~~and~~

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

(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. 46. That section 71-168.01, Revised Statutes Supplement, 1992, be amended to read as follows:

71-168.01. (1) Any person may make a complaint and request investigation of an alleged violation of the Uniform Licensing Law or rules and regulations issued under such law. The department shall review all complaints and determine whether to conduct an investigation and in making such determination may consider factors such as:

(a) Whether the complaint pertains to a matter within the authority of the department to enforce;

(b) Whether the circumstances indicate that a complaint is made in good faith and is not malicious, frivolous, or vexatious;

(c) Whether the complaint is timely or has been delayed too

long to justify present evaluation of its merit;

(d) Whether the complainant may be a necessary witness if action is taken and is willing to identify himself or herself and come forward to testify; or

(e) Whether the information provided or within the knowledge of the complainant is sufficient to provide a reasonable basis to believe that a violation has occurred or to secure necessary evidence from other sources.

(2) If the department determines that a complaint will not be investigated, the department shall notify the complainant of such determination. At the request of the complainant, the appropriate board of examiners may review the complaint and provide its recommendation to the department on whether the complaint merits investigation.

(3) A board of examiners may designate one of its professional members to serve as a consultant to the department in reviewing complaints and on issues of professional practice that may arise during the course of an investigation. Such consultation shall not be required for the department to evaluate a complaint or to proceed with an investigation. A board may also recommend or confer with a consultant member of its profession to assist the board or department on issues of professional practice.

(4) The department may notify the licensee, certificate holder, or registrant that a complaint has been filed and that an investigation will be conducted except when the department determines that such notice may prejudice an investigation.

(5) The department shall advise the appropriate board of examiners on the progress of investigations. If requested by the complainant, the identity of the complainant shall not be released to the board. When the department determines that an investigation is complete, the department shall consult with the board to obtain its recommendation for submission to the Attorney General. In making a recommendation, the board may review all investigative reports and have full access to the investigational file of the department and any previous investigational information in the files of the department on the licensee, certificate holder, or registrant that may be relevant to the investigation, except that reports or other documents of any law enforcement agency provided to the department shall not be available for board review except to the extent such law enforcement agency gives permission for release to the board and reports provided by any other agency or public or private entity, which reports are confidential in that agency's or entity's possession and are provided with the express expectation that the report will not be disclosed, may be withheld from board review. The recommendation of the board shall be made part of the completed investigational report of the department and submitted to the Attorney General. The recommendation of the board shall include, but not be limited to:

(a) The specific violations of statute, regulation, or both that the board finds substantiated based upon the investigation;

(b) Matters which the board believes require additional

investigation; and

(c) The disposition or possible dispositions that the board believes appropriate under the circumstances.

(6) If the department and the board disagree on the basis for investigation or if the board recommends additional investigation and the department and board disagree on the necessity of additional investigation, the matter shall be forwarded to the Attorney General for review and determination.

(7) Investigational records, reports, and files of any kind shall not be public records, shall not be subject to subpoena or discovery, and shall be inadmissible in evidence in any legal proceeding of any kind or character except a contested case before the department. Such investigational records, reports, and files shall be a public record if ~~unless~~ made part of the record of a contested case. No person, including, but not limited to, department employees and members of a board, having access to investigational records, reports, or files shall disclose such records or information in violation of this section. Violation of this subsection shall be a Class I misdemeanor.

(8) All meetings of the boards of examiners or between a board and staff of the department or the Attorney General on investigatory matters shall be held in closed session, including the voting of the board on any matter pertaining to the investigation or recommendation.

Sec. 47. That section 71-1,132.47, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.47. There is hereby created ~~a fund to be known as~~ the Nurses' Licensing Cash Fund. There ~~, and from which~~ shall be appropriated from the fund such amounts as are available therefrom and as shall be considered incident to the administration of the Licensed Practical Nurse-Certified Act and sections 71-1,132.04 to ~~71-1,132.09 and 71-1,132.11 to 71-1,132.52~~ 71-1,132.53. The fund shall contain all fees and money collected by the board or the department under the provisions of ~~this section~~ the act and such sections ~~71-1,132.04 to 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, and 71-1,132.48,~~ which shall be ~~paid into the state treasury and~~ remitted to the State Treasurer ~~shall~~ for credit ~~the money~~ to the ~~Nurses' Licensing Cash Fund~~ fund.

Sec. 48. That section 71-1,142, Revised Statutes Supplement, 1992, 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) ~~the responsibility for advising, when necessary or when regulated, of therapeutic values, content, hazards, and use of drugs and devices;~~ patient counseling, (f) the provision of pharmaceutical care, and ~~(f)~~ (g) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. ~~For a one year period commencing on July 15, 1992, the dispensing of methadone pursuant to a narcotics treatment program for maintenance or detoxification treatment for narcotics addicts as defined by 21 C.F.R. 291.505 by a licensed registered nurse or licensed practical nurse designated by and pursuant to a lawful order countersigned by a medical practitioner shall not be deemed to be the practice 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 ~~giving a dosage unit of a drug to a patient~~ 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;

~~(5)~~ (7) Department shall mean the Department of Health;

~~(6)~~ (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 ~~required under federal or state law to be~~ prescribed by a medical practitioner and dispensed by a pharmacist;

~~(7)~~ (9) Dispense or dispensing shall mean the preparation and delivery of a ~~prescription~~ 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 ~~prescription~~ drug or device;

~~(8)~~ (10) Distribute shall mean the delivery of a drug or device other than by administering or dispensing;

~~(9)~~ (11) Person shall mean an individual, corporation,

partnership, association, or other legal entity;

~~(10)~~ (12) Labeling shall mean the process of preparing and affixing ~~of~~ 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;

~~(11)~~ (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; ~~(b) compounds or dispenses drugs and medicines, or fills the prescriptions of medical practitioners; or (c) advertises drugs, drug store, pharmacy, apothecary, hospital pharmacy, dispensary, or any combination of such titles, or any title or description of like import;~~

~~(12)~~ (15) Pharmacy shall mean (a) any establishment, place, or location~~, which is~~ advertised as a pharmacy, drug store, ~~apothecary,~~ 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 ~~which is~~ used as a pick-up point, or drop point, including kiosks, for prescriptions to be filled or where ~~prescription medication is~~ prescribed drugs or devices are made ready for delivery to the patient;

~~(13)~~ (16) Drugs, medicines, and medicinal substances shall mean ~~all poisonous, dangerous, or deleterious substances and preparations for external or internal use, and~~ (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 ~~human body; and~~ 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; ~~, and except patent and proprietary medicines;~~

~~(14)~~ (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;

~~(15)~~ (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 55 of this act;

(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;

~~(16)~~ (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 ~~and medicines~~ or devices and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist who ~~must~~ shall either be the person to whom the pharmacy permit is issued or in the actual employ of the permittee;

~~(17)~~ (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;

~~(18)~~ (22) Prescription ~~drug~~ order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug or device;

~~(19)~~ (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; ~~and~~

(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) ~~(20)~~ Supportive pharmacy personnel shall mean ~~any individual who is trained and, according to the written standards of the employing hospital inpatient pharmacy, to perform routine pharmacy functions, under the supervision of a licensed pharmacist, which do not require the use of professional judgment, in connection with the preparation and distribution of medications~~ 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. 49. (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 hospital and the license of 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 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. 50. That section 71-1,147, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147. (1) Except as provided in section 71-1,147.33, no person other than a licensed pharmacist or a pharmacy intern; shall, as described in sections 71-1,142, 71-1,143, and 71-1,147 to 71-1,147.14, compound and dispense drugs ~~and medicines~~ or devices and fill the prescription of a medical practitioner.

(2) Except as provided in section 28-414, no prescription may be filled or refilled more than twelve months after the date of issuance of the prescription.

(3) Except as provided in section 71-1,147.33, it shall be unlawful for any person to permit or direct a person; who is not a pharmacy intern; or licensed pharmacist; to compound and dispense drugs ~~and medicines~~ or devices or fill the prescription of a medical practitioner.

(4) It shall be unlawful for any person to coerce a pharmacist to supervise any supportive pharmacy personnel for any purpose or in any manner contrary to the professional judgment of the pharmacist. Violation of this subdivision by a licensed pharmacist shall be considered an act of unprofessional conduct for purposes of section 71-147. A violation of this subdivision shall be prima facie evidence in an action against the permit of any pharmacy in which such violation occurred.

(5) ~~(3)~~ For ~~the purpose~~ purposes of this section, nothing ~~contained herein~~ in this section shall be construed to prohibit

any registered nurse employed by a hospital from administering single doses of drugs from original drug containers; or properly labeled prepackaged drug containers; to any ~~person registered as a~~ patient ~~or confined in a~~ of the hospital; upon the order or prescription of a medical practitioner; or to prohibit such registered nurse employed by a hospital from procuring the original drug container or properly labeled prepackaged drug container for the purpose of single-dose ~~single dose~~ drug administration to any ~~person registered as a~~ patient ~~or confined in~~ of the hospital; upon the order or prescription of a medical practitioner.

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

Sec. 51. That section 71-1,147.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.09. ~~The~~ To protect the health, safety, and welfare of the public, to ensure to the greatest extent possible the accurate, efficient, and safe practice of pharmacy, to ensure that prescription drugs and devices conform to the orders authorizing their dispensing or administration, and to implement sections 28-1437 to 28-1439.01, 71-1,142 to 71-1,147.33, 71-2401 to 71-2405, and 71-2501 to 71-2512, the Mail Service Prescription Drug Act, the Nebraska Drug Product Selection Act, and the Uniform Controlled Substances Act, the department, upon the recommendation of the board, ~~is hereby authorized to~~ shall adopt and promulgate rules and regulations:

(1) For the enforcement of sections 71-1,142~~, 71-1,143, and 71-1,147 to 71-1,147.14~~ to 71-1,147.33 and sections 49 and 55 to 58 of this act;

(2) To establish minimum requirements regarding adequate facilities for the safe storage of narcotic drugs and other drugs requiring refrigeration or other special storage;

(3) For equipment, facilities, and utilities for the prescription department;

(4) To establish minimum standards governing sanitation, orderliness, cleanliness, library requirements, ventilation, and prescription and other record keeping;

(5) To establish minimum standards governing the definition and application of computers or other electronic record systems in pharmacy;

(6) To establish minimum standards for the practice of nuclear pharmacy;

(7) To establish minimum standards for the dispensing of drugs or ~~medicinal substances~~ devices in unit-dose or unit-of-use containers;

(8) To establish minimum standards for compounding, ~~and~~ dispensing, and administering sterile ~~parenteral~~ products; ~~and~~

(9) To establish minimum standards governing the inspection of pharmacies to demonstrate compliance with sections ~~28-401 to 28-445,~~ 28-1437 to 28-1439.01, 71-1,142 to 71-1,147.33 and sections

49 and 55 to 58 of this act, 71-2401 to 71-2405, and 71-2501 to 71-2512, ~~and~~ the Nebraska Drug Product Selection Act, and the Uniform Controlled Substances Act and such rules and regulations as are adopted and promulgated by the department pursuant to such sections and ~~act~~ acts. Such standards shall include, but not be limited to: (a) Criteria for successful completion of an opening inspection; (b) criteria for successful completion of an annual inspection; and (c) criteria for the issuance of a written warning notice listing specific violations to which the permittee shall respond in writing to the department, by the date stated on the warning notice, stating that the violations listed in the warning notice have been corrected;

(10) To establish minimum standards governing patient counseling, patient information, and communications to a patient;

(11) To establish minimum standards for the terms and provisions of the written control procedures and guidelines required by subsection (4) of section 71-1,147.33 as they relate to the qualifications, on-site training, functions, and supervision of supportive pharmacy personnel;

(12) To establish standards and guidelines for the identification of supportive pharmacy personnel as such while they are performing duties in a pharmacy; and

(13) To establish minimum standards and guidelines for the documentation of the verification of the acts, tasks, or functions of supportive pharmacy personnel.

The minimum standards and requirements for the practice of pharmacy and for public or private hospital pharmacies licensed by the department shall be consistent with ~~and no more or less stringent than~~ the minimum requirements and standards established by the department under sections 71-2017 to 71-2029.

Sec. 52. That section 71-1,147.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.10. (1) The department shall deny an application for a permit to conduct a pharmacy, revoke or suspend a permit to conduct a pharmacy, ~~or~~ refuse renewal of a permit to conduct a pharmacy, deny an application for a license to operate a hospital, revoke or suspend the license of a hospital, or refuse renewal of a hospital license on any of the following grounds:

(a) Conviction of any crime involving moral turpitude;

(b) Obtaining a pharmacy permit or an inspection certificate by false representation or fraud;

(c) Operating a pharmacy or hospital pharmacy without a ~~registered~~ licensed pharmacist responsible for the practice of pharmacy;

(d) The compounding and dispensing of drugs ~~and medicines~~ or devices or the filling of a prescription by a person other than a ~~registered~~ licensed pharmacist or by an intern in pharmacy, without the presence of and the immediate personal supervision of a ~~registered~~ licensed pharmacist except as provided in section 71-1,147.33;

(e) A conviction of a violation of ~~any of the provisions of~~

sections 71-1,142~~, 71-1,143, and 71-1,147 to 71-1,147.14~~ to 71-1,147.33 and sections 49 and 55 to 58 of this act or of a felony or, if a natural person, the revocation or suspension of a license to practice pharmacy in this state;

(f) Unprofessional conduct~~,~~ which ~~is hereby defined to~~ shall include, but not be limited to: (i) Misrepresentation or fraud in the conduct of a pharmacy or hospital pharmacy; (ii) aiding or abetting an unlicensed person to practice pharmacy; (iii) the dispensing over the counter without a prescription of a drug or device which under state or federal law or regulation is prohibited from being dispensed without a prescription or the renewal of such a prescription without the authorization of the prescriber; (iv) the dispensing of a different drug or device in place of the drug or device ordered or prescribed without the express permission of the person ordering or prescribing the same; ~~or~~ (v) any fraudulent act in drug product selection whereby the purchaser is charged for the prescribed brand rather than the selected product which is deemed to be chemically and therapeutically equivalent; (vi) failure to account for significant, substantial shortages or overages of controlled substances; or (vii) use of supportive pharmacy personnel in violation of section 71-1,147.33;

(g) Violation of the rules and regulations governing the practice of pharmacy as adopted and promulgated under authority of section 71-1,147.09 by the department; and

(h) Suggesting, soliciting, ordering, assisting, or abetting a pharmacist in the violation of any of the offenses set forth in sections 71-147 and 71-148.

(2) Nothing contained in this section shall be construed to prohibit any hospital~~,~~ licensed by the department~~,~~ from establishing rules and regulations regarding the method by which medical staff members shall agree to order or prescribe drugs ~~and medicines~~ or devices for patients of such hospitals.

(3) If the department determines to deny, revoke, suspend, or refuse renewal of the license of a hospital pursuant to this section, the procedures for such action in sections 71-2023 to 71-2029 shall be followed.

~~(3)~~ (4) If the department determines to deny~~;~~ an application for a permit to or to revoke, suspend, or refuse renewal of a permit to conduct a pharmacy, it shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, revocation, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing. The applicant or permittee 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 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 certified mail to the applicant or permittee. The decision shall become final thirty days

after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to section 71-1,147.12. 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 a fee at a rate prescribed by the rules and regulations adopted and promulgated by the department.

~~(4)~~ (5) The proceeding shall be summary in its nature and triable as an equity action. Affidavits may be received in evidence in the discretion of the Director of Health. 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, 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:

(a) Issue a censure or reprimand against the permittee;

(b) Suspend judgment;

(c) Place the permittee on probation;

(d) Place a limitation or limitations on the permit and upon the right of the permittee to operate a pharmacy to the extent, scope, or type of operation for such time and under such conditions as the director finds necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;

(e) Impose a civil penalty not to exceed ten thousand dollars;

(f) Enter an order of suspension of the permit;

(g) Enter an order of revocation of the permit; and

(h) Dismiss the action.

~~(5)~~ (6) The permittee shall not operate a pharmacy after a permit is revoked or during the time for which ~~it~~ the permit is suspended. If a permit is suspended, the suspension shall be for a definite period of time to be fixed by the director. Such permit shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If such permit is revoked, such revocation shall be permanent, except that at any time after the expiration of two years, application may be made for reinstatement of any permittee whose permit shall have been revoked. Such application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board. The amount of the civil penalty, if any, shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any. The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application.

~~(6)~~ (7) Any civil penalty assessed and unpaid under this section 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 a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days ~~from~~ after receipt ~~transmit~~ remit any collected civil penalty to the State Treasurer for ~~deposit in~~ credit to the permanent school fund.

(8) The Attorney General, upon the recommendation of the board, shall initiate criminal proceedings pursuant to section 71-167 against supportive pharmacy personnel who knowingly perform tasks or functions which require the expertise or professional judgement of a pharmacist. When appropriate, the Attorney General, upon the recommendation of the board, shall initiate corresponding criminal charges against pharmacists, pharmacy owners, or other persons who knowingly permit supportive pharmacy personnel to perform professional duties which require the expertise or professional judgement of a pharmacist.

Sec. 53. That section 71-1,147.13, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.13. Any person who does or commits any of the acts or things prohibited by sections 71-1,142, 71-1,143, and 71-1,147 to 71-1,147.14; and sections 49 and 55 to 58 of this act or otherwise violates any of the provisions thereof; shall be guilty of a Class II misdemeanor.

Sec. 54. That section 71-1,147.33, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.33. (1) Any ~~hospital-inpatient~~ pharmacy may employ supportive pharmacy personnel to perform tasks which do not ~~requiring~~ require professional judgment and which are subject to verification to assist in the preparation, compounding, dispensing, and distribution, ~~and dispensing~~ of ~~medications~~ drugs or devices, including, but not limited to, (a) maintaining ~~: Maintaining~~ patient ~~medication~~ drug records, (b) ~~:~~ setting up, packaging, and labeling ~~medication~~ drug doses, (c) ~~:~~ filling ~~and dispensing~~ routine orders for stock supplies, ~~:~~ and (d) mixing, labeling, and preparing drugs with parenteral fluids.

(2) The following functions and tasks shall be deemed to require the exercise of professional judgment by a pharmacist and shall not be performed by supportive pharmacy personnel:

(a) Receiving oral orders for new prescriptions or oral authorizations to refill prescriptions from a medical practitioner or his or her agent;

(b) Providing patient counseling to a patient or caregiver regarding drugs or devices, either before or after they have been dispensed, or regarding any medical information contained in a patient's record maintained pursuant to sections 55 and 56 of this act;

(c) Performing any evaluation or necessary clarification of a prescription or performing any functions other than strictly clerical

functions involving the interpretation of a prescription prior to dispensing;

(d) Training, instructing, supervising, verifying, or directing the duties of supportive pharmacy personnel;

(e) Interpreting or evaluating the data contained in a patient's record maintained pursuant to section 55 of this act;

(f) Performing or participating in any professional consultation with medical practitioners, nurses, other health care professionals, or the authorized agent of any of them, for the purpose of providing pharmaceutical care;

(g) Verifying any prescribed drug or device prior to dispensing; and

(h) Determining, with regard to an individual prescription, the chemically and therapeutically equivalent drug products to be drug product selected for brand-name drug products in accordance with the Nebraska Drug Product Selection Act.

(3) The ~~pharmacist in charge~~ pharmacy employing supportive pharmacy personnel shall be responsible for the ~~practice of pharmacy and supportive pharmacy~~ supervision, on-site training, and performance of such personnel. ~~in the hospital. Supportive pharmacy personnel employed by the hospital shall be under the supervision of a licensed pharmacist.~~

~~(2) Written~~ (4) The pharmacist in charge shall be responsible for the practice of pharmacy and the establishment of written control procedures and guidelines ~~for the supervision~~ governing the qualifications, onsite training, functions, supervision, and verification of the performance of supportive pharmacy personnel. The training of supportive pharmacy personnel shall include instruction, onsite in the facility where such personnel are to be employed, in the duties and responsibilities of such personnel under state law and in the nature of the functions which they may and may not perform. The ~~and the~~ supervision of such personnel at the place of employment shall be performed by the licensed pharmacist who is on duty in the facility with the supportive pharmacy personnel as provided in subsection (5) of this section. ~~by registered pharmacists shall be established by the pharmacist in charge of any hospital inpatient pharmacy which employs supportive pharmacy personnel. Such guidelines shall be subject to periodic review by the board or its representatives.~~

(5)(a) The written control procedures and guidelines shall specify the means by which the employing pharmacy will determine that supportive pharmacy personnel are at least eighteen years of age, are high school graduates or possess an equivalent degree of education, and have never been convicted of any drug-related misdemeanor or felony.

(b) The written control procedures and guidelines shall specify that the onsite training of an individual employed in such capacity shall occur within the first month that such individual is employed, that the participation of individuals in such training during such period will be confirmed by the employing pharmacy, that all aspects of such training will be documented, and that the onsite training shall include, but not be

limited to, basic instruction in the following:

(i) Basic pharmaceutical nomenclature;

(ii) Metric system measures, both liquid and solid;

(iii) The meaning and use of Roman numerals;

(iv) Latin abbreviations used for dosages and directions to patients;

(v) Basic medical terms, including terms relating to ailments, diseases, or infirmities;

(vi) Instruction on the use and operation of automated dispensing and record-keeping systems if used by the employing pharmacy;

(vii) Discussion of applicable statutes, rules, and regulations governing the preparation, compounding, dispensing, and distribution of drugs or devices, record keeping with regard to such functions, and the employment, use, and functions of supportive pharmacy personnel; and

(viii) Discussion of the contents of the written control procedures and guidelines.

Each employing pharmacy shall be responsible for confirming in a manner and method prescribed by the department that supportive pharmacy personnel employed by the pharmacy have achieved a basic level of competence in the areas included in the onsite training.

(c) Written control procedures and guidelines shall include a protocol specifying the functions that supportive pharmacy personnel will perform in the employing pharmacy. The written control procedures and guidelines shall specify the means employed by the employing pharmacy to assure that the prescribed drug or device, the dosage form, and the directions provided to the patient conform to the order that authorized the drug to be dispensed.

(d) The written control procedures and guidelines shall specify the manner in which the pharmacist responsible for the supervision of supportive pharmacy personnel will supervise such personnel and document the verification of the accuracy and completeness of their acts, tasks, and functions. Such verification shall include documentation that such pharmacist has checked the accuracy of all acts, tasks, or functions being performed by supportive pharmacy personnel.

~~(3)~~ (6) The pharmacy shall, prior to the utilization of supportive pharmacy personnel, file with the department a copy of its written control procedures and guidelines. The board ~~may~~ shall review for approval or disapproval ~~and approve~~ written control procedures and guidelines for the use of supportive pharmacy personnel in all ~~hospital inpatient~~ pharmacies which employ ~~them.~~ such personnel prior to their utilization. The board shall, within ninety days of the filing of such written control procedures and guidelines, review and either approve or disapprove them. The board or its representatives shall have access to the approved written control procedures and guidelines upon request.

(7) Hospitals that have been utilizing supportive pharmacy personnel prior to the operative date of this section may continue to use

such personnel after such date but shall submit to the board the written control procedures and guidelines governing such supportive pharmacy personnel. A hospital that commences using supportive pharmacy personnel as provided in the rules and regulations adopted and promulgated by the department pursuant to sections 71-1,142 to 71-1,147.33 and sections 49 and 55 to 58 of this act on or after such date shall meet the requirements of such sections.

~~(4)(a)~~ (8)(a) If supportive pharmacy personnel ~~in a hospital~~ perform functions ~~not specified in this section or~~ requiring professional judgment and licensure as a pharmacist, perform functions not specified under ~~other~~ approved written control procedures and guidelines, or perform functions without supervision, and such acts are known to the pharmacist supervising the supportive pharmacy personnel or the pharmacist in charge or are of such a nature that they should have been known to a reasonable person, ~~they~~ such acts may be considered acts of unprofessional conduct on the part of the pharmacist supervising the supportive pharmacy personnel or the pharmacist in charge pursuant to section 71-147 against whom disciplinary measures may be taken.

(b) Acts described in subdivision (a) of this subsection may be grounds for the ~~Department of Health~~ department, upon the recommendation of the board, to apply to the district court in the judicial district in which the ~~hospital~~ pharmacy is located for an order to cease and desist from the performance of any unauthorized acts. On ~~such application~~, or at any time after such application, ~~such~~ the court may, in its discretion, issue an order restraining such ~~hospital~~ pharmacy or its agents or employees from the performance of unauthorized acts. After a full hearing the court shall either grant or deny the application. Such order shall continue until the court, after a like hearing, finds the basis for such order has been removed.

Sec. 55. (1)(a) Prior to the dispensing or the delivery of each new or refill prescription to a patient or caregiver, a pharmacist shall in all care settings conduct a prospective drug utilization review. Such prospective drug utilization review shall involve monitoring the patient-specific medical history described in subdivision (b) of this subsection and available to the pharmacist at the practice site for:

(i) Therapeutic duplication;

(ii) Drug-disease contraindications;

(iii) Drug-drug interactions;

(iv) Incorrect drug dosage or duration of drug treatment;

(v) Drug-allergy interactions; and

(vi) Clinical abuse or misuse.

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

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

(ii) The patient's history of significant disease, known

allergies, and drug reactions and a comprehensive list of relevant drugs and devices used by the patient; and

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

(c) The assessment of data on drug use in any prospective drug utilization review shall be based on predetermined standards, approved by the department upon the recommendation of the board, and consistent with the following:

(i) Compendia which shall consist of the following:

(A) American Hospital Formulary Service Drug Information;

(B) United States Pharmacopeia-Drug Information; and

(C) American Medical Association Drug Evaluations; and

(ii) The peer-reviewed medical literature.

(2)(a) Prior to the dispensing or delivery of each new or refill prescription, the pharmacist shall ensure that a verbal offer to counsel the patient or caregiver is made. The counseling of the patient or caregiver by the pharmacist shall be on elements which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant for the patient. Such elements may include, but need not be limited to, the following:

(i) The name and description of the prescribed drug;

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

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

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

(v) Techniques for self-monitoring drug therapy;

(vi) Proper storage;

(vii) Prescription refill information; and

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

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

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

(d) Written information may be provided to the patient or caregiver to supplement the counseling provided for in subdivision (a) of this subsection but shall not be used as a substitute for such counseling. If written information is provided, it shall also include all information found on the prescription label.

(e) Nothing in this subsection shall be construed to require a pharmacist to provide the counseling called for by subdivision (a) of this subsection when:

(i) The patient or caregiver refuses such counseling;

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

(iii) The patient is a patient or resident of a health care facility licensed pursuant to sections 71-2017 to 71-2029 to whom prescribed drugs or devices are administered by a licensed or certified staff member or consultant or a certified physician's assistant; or

(iv) The medical practitioner duly authorized to prescribe drugs or devices specifies manually on the face of the written prescription or by telephonic communication on each prescription that there shall be no patient counseling unless he or she is contacted prior to such counseling. The pharmacist shall note "Contact Before Counseling" on the face of the prescription if such is communicated orally by the prescribing medical practitioner.

Sec. 56. Information with regard to a patient maintained by a pharmacist pursuant to sections 71-1,142 to 71-1,147.33 and sections 49 and 55 to 58 of this act shall be privileged and confidential and may be released only to (a) the patient or the caregiver of the patient or others authorized by the patient or his or her legal representative, (b) a physician treating the patient, (c) other physicians or pharmacists when, in the professional judgement of the pharmacist, such release is necessary to protect the patient's health or well-being, or (d) other persons or governmental agencies authorized by law to receive such information.

Sec. 57. Any provisions relating to the use of supportive pharmacy personnel under sections 71-1,142 to 71-1,147.33 and sections 49 and 55 to 58 of this act shall terminate five years after the effective date of the rules and regulations adopted and promulgated by the department with regard to subdivisions (11) through (13) of section 71-1,147.09. All provisions of sections 71-1,142 to 71-1,147.33 and sections 49 and 55 to 58 of this act relating to supportive pharmacy personnel shall terminate as of such date.

Sec. 58. Not later than one year prior to the date of the termination of the provisions of sections 71-1,142 to 71-1,147.33 and sections 49 and 55 to 58 of this act relating to supportive pharmacy personnel as provided in section 57 of this act, the Department of Health shall conduct a review and evaluation of the effectiveness and impact on the public and the practice of pharmacy of the utilization of supportive pharmacy personnel in the State of Nebraska. Such review shall include a report on the extent to which such personnel are utilized, the primary functions they are conducting, the impact of their use on the cost of prescription medications to the public, an analysis of any incidents of harm to the public related to the use of supportive pharmacy personnel, and such other information as may be necessary to provide a full and complete evaluation of the impact of the utilization of such personnel. Such evaluation shall determine whether the provisions of sections 71-1,142 to 71-1,147.33 and sections 49 and 55 to 58 of this act relating to the use of supportive pharmacy personnel provide appropriate protection

to the public and shall recommend appropriate legislation necessary to enhance public safety and permit the more efficient and economic use of such personnel, if warranted by the study. The department shall conduct such review and evaluation in such manner as to provide for the active participation of members of the profession of pharmacy, including those supervising supportive pharmacy personnel, members of the Board of Examiners in Pharmacy, other health care professionals, and members of the general public. A final report of the review and evaluation shall be submitted to the Clerk of the Legislature not later than October 1 of the year immediately preceding the date of termination of the provisions of such sections relating to supportive pharmacy personnel.

Sec. 59. That section 71-1,232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,232. (1) The board may issue a temporary permit to practice respiratory care to any person who (a) meets all the requirements for a license as specified in subsection (1) of section 71-1,231 except passage of the licensure examination required by subsection (2) of such section, (b) makes application for such permit within six months after the date of graduation from an accredited respiratory care educational program, and (c) submits ~~permits to students and graduates of training programs approved by the board for a period of one year. The department upon recommendation of the board shall establish and collect~~ a fee of not less than ten dollars nor more than fifty dollars as established by the department upon recommendation of the board. ~~Temporary permits may be extended by the board for one consecutive year with the approval of the department upon a showing of good cause.~~

(2) A temporary permit (a) shall allow the person to practice only when supervised by a licensed respiratory care practitioner, (b) shall be valid for one year from the date of issuance, (c) shall become null and void upon passage of the licensure examination or the expiration of one year from the date of issuance, whichever comes first, and (d) may be extended for up to one year by approval of the board upon a showing of good cause by the permitholder. The fee for such extension shall be the same as for the initial temporary permit.

~~(2) An applicant shall have up to two years from the date of issuance of a temporary permit to successfully complete the examination. After such period the board may require the applicant to submit proof of an additional amount of training, approved by the board, prior to reexamination.~~

(3) ~~A temporary permit issued to a person who is a student in an approved training program shall be valid only so long as that person is a student in good standing or a graduate of the program.~~ The Director of Health may suspend a temporary permit for a violation of the Uniform Licensing Law.

(4) The board shall, with the approval of the department, adopt and promulgate rules and regulations relating to the issuance and administration of temporary permits ~~for students and graduates of approved training programs~~ to practice respiratory care prior to

licensure.

Sec. 60. That section 71-602, Revised Statutes Supplement, 1992, be amended to read as follows:

71-602. (1) The Department of Health shall adopt and promulgate rules and regulations prescribing all standard forms for registering with or reporting to the department and for certification to the public of any birth, abortion, marriage, annulment, dissolution of marriage, or death registered in Nebraska. Such forms shall ~~(1)~~ (a) provide for the registration of vital events as accurately as possible, ~~(2)~~ (b) secure information about the economic, educational, occupational, and sociological backgrounds of the individuals involved in the registered events and their parents as a basis for statistical research in order to reduce morbidity and mortality and improve the quality of life, ~~(3)~~ (c) accomplish such duties in a manner which will be uniform with forms for reporting similar events which have been established by the United States Public Health Service to the extent such forms are consistent with state law, and ~~(4)~~ (d) permit other deviations from such forms as will reduce the costs of gathering information, increase efficiency, or protect the health and safety of the people of Nebraska without jeopardizing such uniformity.

(2) All information designated by the department on all certificates as being for health data and statistical research shall be confidential and may be released only to the United States Public Health Service or its successor, government health agencies, or a researcher as approved by the department in accordance with its rules and regulations. The department may publish analyses of any information received on the forms for scientific and public health purposes in such a manner as to assure that the identity of any individual cannot be ascertained. The release of such information pursuant to this section shall not make otherwise confidential information a public record.

Sec. 61. All information designated by the Department of Health on all certificates as being for health data and statistical research shall be confidential but may be released to the Department of Social Services for research and statistical purposes. The Department of Social Services may release cost, health, and associated health risk information from medicaid records to the Department of Health for research and statistical purposes. Release of information shall be pursuant to a written agreement between the Department of Health and the Department of Social Services. Such agreement shall provide for protection of the security of the content of the information, including access limitations, storage of the information, destruction of the information, and use of the information. The release of such information pursuant to this section shall not make otherwise confidential information a public record.

Sec. 62. That section 71-604.05, Revised Statutes Supplement, 1992, be amended to read as follows:

71-604.05. (1) The Bureau of Vital Statistics shall not file (a) a certificate of live birth, (b) a certificate of delayed birth registration for a registrant under twenty-five years of age when an application for

such certificate is filed, (c) a certificate of live birth filed after adoption of a Nebraska-born person or a person born outside of the jurisdiction of the United States, or (d) a certificate of live birth issued pursuant to section 71-628 unless the social security number or numbers issued to the parents are furnished by the person seeking to register the birth. No such certificate may be amended to show paternity unless the social security number of the father is furnished by the person requesting the amendment. The social security number shall not be required if no social security number has been issued to the parent or if the social security number is unknown.

(2) Social security numbers (a) shall be recorded on the birth certificate but shall not be considered part of the birth certificate and (b) shall only be used for the purpose of enforcement of child support orders in Nebraska as permitted by Title IV-D of the Social Security Act, as amended, or as permitted by section 7(a) of the Privacy Act of 1974, as amended. The Department of Health shall make social security numbers available to the Department of Social Services for purposes permitted under Title IV-D of the Social Security Act, as amended.

(3) The Department of Health, on receipt of a written or electronic request by the Department of Social Services, may release data to the Social Security Administration which is necessary to obtain a social security number and which is contained on the birth certificate of any individual who has applied for or is receiving medicaid or food stamp benefits. The Department of Health shall make such data available only for the purpose of obtaining a social security number for the individual.

Sec. 63. That section 71-612, Revised Statutes Supplement, 1992, be amended to read as follows:

71-612. (1) The Director of Health, as the State Registrar, through the Department of Health shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, or dissolution of marriage registered. The department shall supply a copy of a public vital record for viewing purposes at its office upon an application signed by the applicant and upon proof of the identity of the applicant. The application may include the name, address, and telephone number of the applicant, purpose for viewing each record, and such other information as may be prescribed by the department by rules and regulations to protect the integrity of vital records and prevent their fraudulent use. Except as provided in subsections (2), (3), (5), (6), and (7) of this section, the department shall be entitled to charge and collect in advance a fee of seven dollars, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, whether or not the record is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record on file with the department upon the request of (a) the United States Department of Veterans Affairs or any

lawful service organization empowered to represent veterans if the copy of the record is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department.

(3) The Department of Health may, free of charge, search for and furnish a certified copy of any record on file with the department when in the opinion of the director of vital statistics it would be a hardship for the claimant of old age, survivors, or disability benefits under the Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Such funds 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 for the purpose of administering the laws relating to vital statistics and may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The department shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any inhospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that such fee shall not exceed two dollars per individual search or copy requested.

(6) The department may permit use of data from vital records for statistical or research purposes under section 71-602 or disclose data from certificates or records to federal, state, county, or municipal agencies of government for use in administration of their official duties and charge and collect a fee that will recover the department's cost of production of the data. The department may provide access to public vital records for viewing purposes by electronic means, if available, under such security provisions as shall assure the integrity and security of the records and data base and shall charge and collect a fee that shall recover the department's costs.

(7) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for access to or a certified copy of any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall charge and collect in advance a fee of one dollar for any certified copy of the record of any birth or for any search made at

the applicant's request for such record, whether or not the record is found on file with the county. All such fees collected shall be remitted to the State Treasurer for credit to the General Fund.

(8) The department shall not charge other state agencies the fees authorized under subsections (1) and (7) of this section for automated review of any certificates. The department shall charge and collect a fee from other state agencies for such automated review that will recover the department's cost.

Sec. 64. That section 71-646, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-646. The Director of Health shall establish within the Department of Health a birth defects registry for the purpose of initiating and conducting investigations of the causes, mortality, methods of prevention, treatment, and cure of birth defects and allied diseases. Any information released from the registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 1 to 13 of this act.

Sec. 65. That section 71-647, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-647. (1) The Department of Health shall have and may exercise the following powers and duties:

(a) ~~(1)~~ To conduct scientific investigations and surveys of the causes, mortality, methods of prevention, treatment, and cure of birth defects;

(b) ~~(2)~~ To publish at least annually the results of such investigations and surveys for the benefit of the public health and to annually collate such publications for distribution to scientific organizations and qualified scientists and physicians;

(c) ~~(3)~~ To carry on programs of professional education and training of medical students, physicians, nurses, scientists, and technicians in the causes, methods of prevention, treatment, and cure of birth defects;

(d) ~~(4)~~ To conduct and support clinical counseling services in medical facilities; and

(e) ~~(5)~~ To secure necessary scientific, educational, training, technical, administrative, and operational personnel and services including laboratory facilities by contract or otherwise from public or private entities in order to carry out the purposes of this section.

(2) Any information released from the birth defects registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 1 to 13 of this act.

Sec. 66. That section 71-648, Revised Statutes Supplement, 1992, be amended to read as follows:

71-648. ~~(1)~~ Birth defects and allied diseases shall be reported by physicians, hospitals, and persons in attendance at births in the manner and on such forms as may be prescribed by the Department of Health. Such reports may be included in the monthly report to the department on births as required by section 71-610. Such reports shall be forwarded to the department no later than the tenth day of the succeeding

month after the birth. When objection is made by either parent to furnishing information relating to the medical and health condition of a live-born child because of conflict with religion, such information shall not be required to be entered as provided in this section.

~~(2) Such reports and information shall be kept confidential and shall not be admissible as evidence in any legal action or proceeding of any kind or character before any court or before any other tribunal, board, agency, or person. The department may publish and allow access to statistical data for scientific and public health purposes in such a manner as to assure that the identities of the individuals concerned cannot be ascertained.~~

Sec. 67. That section 71-1717, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1717. Approved nurse practitioner program shall mean a program which meets the following requirements:

(1) The ~~program has been accredited by the appropriate national accrediting body and the~~ graduates of the program are eligible to take a certification examination approved by the boards;

(2) The program is approved by the board as meeting the requirements of the Nurse Practitioner Act; and

(3) The program is a minimum of one full-time academic year or nine months in length and includes both a didactic component and a preceptorship. ~~The program shall include:~~

~~(a) A minimum of four months or two hundred forty contact hours of classroom instruction; and~~

~~(b) A preceptorship of at least the equivalent of five months full-time or seven hundred twenty hours in the aggregate. No less than twelve hours per week or two hundred forty hours of the preceptorship shall consist of direct preceptor preceptee collaboration in the practice setting; and~~

~~(4) The faculty of the program is qualified for faculty appointment to the controlling educational institution.~~

Sec. 68. That section 71-1721.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1721.04. ~~(1)~~ A nurse practitioner may perform the medical functions of his or her specialty only in the following settings:

~~(a)~~ (1) In a licensed or certified health care facility when acting as an employee or as granted privileges by the facility;

~~(b)~~ (2) In the primary office of a licensed practitioner or in any setting authorized by the collaborating practitioner; or

~~(c)~~ (3) Within an organized public health agency.

~~(2) In the event a nurse practitioner renders services in a hospital or other health care facility, he or she shall be subject to the rules and regulations of that facility. Such rules and regulations may include, but not be limited to, reasonable requirements that the nurse practitioner and all collaborating licensed practitioners maintain professional liability insurance with such coverage and limits as may be established by the hospital or other health care facility upon the recommendation of the~~

~~medical staff.~~

Sec. 69. That section 71-1721.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1721.06. ~~Within sixty days after the certification of any nurse practitioner in the state, other than a certified registered nurse anesthetist, an~~ The boards shall appoint an advisory council, separate from the advisory council appointed pursuant to section 71-1736, ~~, shall be appointed by the boards.~~ The advisory council shall be comprised of one nurse practitioner representing each nurse practitioner specialty for which certification has been issued. A ~~at the time the initial advisory council is established. Thereafter, there shall be appointed a member to the advisory council representing each specialty area being practiced in Nebraska. There shall also be appointed to the advisory council a~~ minimum of one and a maximum of five licensed practitioners who have a current collaborating relationship with a nurse practitioner shall also be appointed to the advisory council. No more than one practitioner who collaborates in a given area of nurse practitioner specialization shall be appointed at one time to the advisory council. All appointments shall be for a two-year term, and council members may serve no more than two consecutive terms. Physician members shall be appointed by the board of examiners and nurse practitioner members shall be appointed by the board.

The purpose of the advisory council, which shall be under the supervision of and directly responsible to the boards, shall be to advise and make recommendations to the boards.

Each advisory council shall:

(1) Act as consultant in matters pertaining to nurse practitioner education and the scope of nurse practitioner practice;

(2) Function as a resource in matters pertaining to grievances or arbitration;

(3) Act as a resource body in matters pertaining to disciplinary action; and

(4) Review certification requirements.

Sec. 70. That section 71-1722, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1722. Application requirements for certification as a nurse practitioner are the following:

(1) A ~~currently valid~~ license ~~in good standing~~ as a registered professional nurse in the State of Nebraska;

(2) A completed application ~~in the applicant's own handwriting~~ verified by oath;

(3) A certification fee not in excess of fifty dollars;

(4) Evidence of having successfully completed an approved nurse practitioner program; ~~. The evidence of successful completion of such a program shall consist of an official transcript showing all courses, grades, quality points, degree or diploma granted, official seal, and the appropriate registrar's signature received by the board directly from the educational institution;~~

(5) Submission of proof of having passed an examination pertaining to the specific nurse practitioner role in nursing adopted or approved by the boards with the approval of the department. Such examination may include any recognized national qualifying examination for nurse practitioners conducted by an approved certifying body which administers an approved certification program;

(6) Completion of a personal interview at the discretion of the boards; and

(7) If more than ~~two but less than~~ five years have elapsed since the completion of the nurse practitioner program or since ~~and~~ the applicant has ~~not~~ practiced in the specific nurse practitioner role, ~~during that time,~~ the applicant shall meet the requirements in subdivisions (1) ~~to~~ through (6) of this section and provide ~~additional~~ evidence of continuing clinical competence, as may be determined by the boards, either by means of a reentry program, references, supervised practice, or examination. ~~; and~~

~~(8) If more than five years have elapsed since completion of the nurse practitioner program in the specific nurse practitioner role and the applicant has not practiced as a nurse practitioner in the specific nurse practitioner role during that time, the applicant shall be required to complete a reentry program in the appropriate specific nurse practitioner role at an educational institution prior to recertification.~~

Sec. 71. That section 71-1724, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1724. Renewal of certification as a nurse practitioner shall be at the same time and in the same manner as renewal of a license as a registered professional nurse and shall require: ~~that:~~

(1) A ~~The current~~ license as a registered professional nurse in the State of Nebraska; ~~is valid and in good standing and continuing education requirements, if any, have been met;~~

(2) Documentation of continued clinical competencies, ~~be made,~~ if deemed necessary by the boards, either by reference, peer review, or examination; and

(3) Payment ~~be made~~ of a biennial certification fee not in excess of thirty dollars.

Sec. 72. That section 71-1724.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1724.01. The department with the approval of the boards may grant temporary certification as a nurse practitioner upon application ~~for a period of one year to~~ (1) to graduates of an approved nurse practitioner program pending results of the ~~initial~~ first certifying examination following graduation and (2) for one hundred twenty days to nurse practitioners currently licensed in another state pending completion of the application for Nebraska certification. A temporary permit issued pursuant to this section may be extended for up to one year with the approval of the boards.

Sec. 73. That section 71-1735, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1735. (1) The procedure for ~~annual~~ biennial recertification as a certified registered nurse anesthetist shall be as prescribed in section 71-1724.

(2) Violations of the Nurse Practitioner Act ~~provisions of sections 71-1,132.05, 71-1,132.11, 71-1,132.49, and 71-1704 to 71-1737~~ shall be dealt with in the manner prescribed in sections 71-1725, 71-1726, and 71-1737.

(3) ~~The provisions of sections~~ Sections 71-1704 to 71-1727 shall apply to certified registered nurse anesthetists unless otherwise specifically provided by law.

(4) All fees received pursuant to ~~the provisions of~~ sections 71-1727 to 71-1737 shall be processed in the same manner as fees received pursuant to sections 71-1,132.04 to 71-1,132.53.

Sec. 74. That section 71-1743, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1743. Boards shall mean both the Board of Nursing and the Board of Examiners in Medicine and Surgery. ~~A quorum shall be required of each board in order to transact any business. For the purposes of the Nebraska Certified Nurse Midwifery Practice Act, a majority vote of each respective board shall be required for taking any action and any action shall require the concurrence of both boards. The boards shall keep a record of all their proceedings relative to the act.~~

Sec. 75. That section 71-1753, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1753. (1) The specific medical functions to be performed by a certified nurse midwife within the scope of permitted practice defined by section 71-1752 shall be described in the practice agreement which shall be reviewed and approved by the boards. A quorum shall be required of each board in order to transact any business. For purposes of the Nebraska Certified Nurse Midwifery Practice Act, a majority vote of each respective board shall be required for taking any action and any action shall require the concurrence of both boards. A copy of the agreement shall be maintained on file with the boards as a condition of lawful practice under the ~~Nebraska Certified Nurse Midwifery Practice Act~~ act.

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

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

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

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

(c) Within an organized public health agency.

(4) The department shall, after consultations with the boards, adopt and promulgate rules and regulations to carry out the Nebraska Certified Nurse Midwifery Practice Act. ~~In the event a certified nurse midwife renders services in a licensed or certified health care facility, he or she shall be subject to the rules and regulations of such facility. Such rules and regulations may include, but are not limited to, reasonable requirements that the certified nurse midwife and all collaborating licensed practitioners maintain professional liability insurance with such coverages and limits as may be established by the licensed or certified health care facility.~~

Sec. 76. That section 71-1755, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1755. (1) An applicant for certification as a nurse midwife shall submit to the boards a written application and such evidence as the boards shall require showing that the applicant is currently licensed as a registered nurse by the state, ~~and~~ has successfully completed an approved certified nurse midwifery education program, and has passed ~~. Upon successful completion of~~ a nationally recognized nurse midwifery examination ~~, which has been~~ adopted by the boards. ~~, and upon recommendation by the boards, the department shall issue a certificate authorizing the applicant to practice certified nurse midwifery.~~

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

(3) ~~Before the~~ The boards shall adopt an examination to be used pursuant to subsection (1) of this section. ~~, the council shall recommend an examination.~~

(4) If more than five years have elapsed since the completion of the nurse midwifery program or since the applicant has practiced as a nurse midwife, the applicant shall meet the requirements in subsection (1) of this section and provide evidence of continuing clinical competence, as may be determined by the boards, either by means of a reentry program, references, supervised practice, or examination.

(5) If an applicant for an initial certificate files an application for certification within ninety days prior to the biennial renewal date of the certificate, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the certificate until the biennial renewal

date and pay only the fee for the initial certification; or

(b) Request that a certificate which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial certification and an additional fee of one-fourth of the biennial fee.

Sec. 77. That section 71-1757, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1757. (1) The certificate of each person certified under the Nebraska Certified Nurse Midwifery Practice Act shall be renewed at the same time and in the same manner as renewal of a license for a registered nurse. Renewal of such a certificate shall require that (a) the applicant have a license as a registered professional nurse issued by the state and (b) documentation of continued clinical competencies, if deemed necessary by the boards, either by reference, peer review, or examination.

(2) The department shall collect fees as follows:

(a) Application for certification, not in excess of fifty dollars; and

(b) Certificate renewal, not in excess of twenty dollars annually or forty dollars biennially.

~~(2)~~ (3) The department may also establish and collect fees for:

(a) Reexamination;

(b) Applications for temporary permits; and

(c) Applications for reinstatement after revocation, suspension, or expiration of certification.

Sec. 78. That section 71-1758, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1758. There shall be created an advisory council known as the Council of Certified Nurse Midwifery which shall be composed of two certified nurse midwives chosen by the Board of Nursing, one member of the general public chosen by the Governor, and two licensed practitioners chosen by the Board of Examiners in Medicine and Surgery. The licensed practitioners shall have collaborative relationships with certified nurse midwives. ~~The term~~ When a sufficient number of nurse midwives have been certified, the terms of office of council members shall be two years, except that of those members appointed to the initial council, one certified nurse midwife member, one practitioner member, and the member from the general public shall each be appointed to serve a one-year term. Council members may serve no more than two consecutive terms. The boards may remove from the council any council member for neglect of duty, incompetence, or unprofessional conduct. In the event that a vacancy occurs on the council, the boards shall appoint a successor from the category vacated for the remaining portion of the unexpired term. The council shall hold meetings as it deems necessary. A majority of the council shall constitute a quorum at any meeting.

The purpose of the advisory council, which shall be under the supervision of and directly responsible to the boards, shall be to advise and make recommendations to the boards.

Sec. 79. That section 71-1759, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

71-1759. The council is authorized to:

(1) Act as a consultant in matters pertaining to nurse midwife education and the scope of certified nurse midwife practice;

(2) Act as a resource body in matters pertaining to disciplinary action;

(3) Review certification requirements; and

(4) ~~Make an annual report to the Director of Health; and~~

~~(5)~~ Undertake such other activities as are not inconsistent with the Nebraska Certified Nurse Midwifery Practice Act.

Sec. 80. That section 71-2017.01, Revised Statutes Supplement, 1992, 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, 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 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 ~~(a) who has satisfied any of the educational requirements listed in this subdivision; (b) who has at least two years of additional experience in treating persons with mental retardation, one of which was spent in an administrative capacity, and (c) who has offered proof of fulfillment of the requirements prescribed in this subdivision to the department. Educational requirements to satisfy this subdivision shall include the following: A psychologist with at least a master's degree in psychology from an accredited college or university and with specialized training or one year of experience in treating persons with mental retardation; a physician licensed under the Uniform Licensing Law to practice medicine and surgery, osteopathic medicine and surgery, or as an osteopathic physician and with specialized training or one year of experience in treating persons with mental retardation; an educator with a degree in education from an accredited college or university and with specialized training or one year of experience in working with persons with mental retardation; or a certified social worker or certified master social worker certificated under the Uniform Licensing Law who has at least three years' social work experience and specialized training or one year of experience in working with persons with mental retardation; 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.

Sec. 81. That section 71-2407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2407. (1) No person operating outside of the State of Nebraska shall ship, mail, or in any manner deliver dispensed prescription drugs into the State of Nebraska unless such person:

(a) Is licensed as a pharmacist in the United States;

(b) Has filed with the Department of Health evidence of a pharmacy license or permit issued by; and valid in; the state in which the person is located and from which such prescription drugs will be shipped, mailed, or otherwise delivered;

(c) Is located and operating in a state in which the requirements and qualifications for obtaining and maintaining a pharmacy license or permit are considered by the Department of Health, with the approval of the Board of Examiners in Pharmacy, to be substantially equivalent to the requirements contained in sections 71-1,142 to 71-1,147.33 and sections 49 and 55 to 58 of this act; ~~and~~

(d) Has designated the Secretary of State as his, her, or its agent for service of process in this state; and

(e) Has paid a fee equivalent to the annual fee for an initial or renewal permit to operate a pharmacy in the State of Nebraska as established in and at the times provided for in section 71-1,147.07. Such fees shall be remitted to the State Treasurer for credit to the Nebraska Pharmaceutical Fund.

(2) This section shall not apply to prescription drugs mailed, shipped, or otherwise delivered by a pharmaceutical company to a laboratory for the purpose of conducting clinical research.

(3) For purposes of this section and section 71-2408, prescription ~~drugs~~ drug shall have the definition found in section 71-1,142.

Sec. 82. That section 71-3501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3501. It is the policy of the State of Nebraska in furtherance of its responsibility to protect occupational and public health and safety and the environment:

(1) To institute and maintain a regulatory program for sources of radiation so as to provide for:

(a) Compatibility and equivalency with the standards and regulatory programs of the federal government;

(b) A single effective system of regulation within the state; and

(c) A system consonant insofar as possible with those of other states;

(2) To institute and maintain a program to permit development and utilization of sources of radiation for peaceful purposes consistent with the protection of occupational and public health and safety and the environment;

(3) To maximize the protection practicable for the citizens of Nebraska from ionizing radiation by establishing requirements for appropriate education and training of persons operating an X-ray system; ~~and~~

(4) To provide for the availability of capacity either within or outside the state for the management of low-level radioactive waste generated within the state, except for waste generated as a result of defense or federal research and development activities, and to recognize that such radioactive waste can be most safely and efficiently managed on a regional basis; and

(5) To maximize the protection practicable for the citizens of Nebraska from radon or its decay products by establishing requirements for (a) appropriate qualifications for persons providing measurement and mitigation services of radon or its decay products and (b) radon mitigation system installations.

Sec. 83. That section 71-3503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3503. For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation shall mean ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation shall mean gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but shall not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation shall mean (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material shall mean any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously.

Radioactive material shall include, but not be limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment shall mean any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation shall mean any radioactive material, radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation shall mean radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person shall mean any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing; ~~but shall not include federal government agencies;~~

(7) Registration shall mean registration with the department pursuant to the Radiation Control Act;

(8) Department shall mean the Department of Health;

(9) Coordinator shall mean the Director of Health;

(10) Council shall mean the radiation advisory council provided for in section 71-3506;

(11) Electronic product shall mean any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(12) License shall mean:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials; ~~or~~

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials; or

(c) A license issued to a radon measurement specialist, radon measurement technician, radon mitigation specialist, radon mitigation technician, radon measurement business, or radon mitigation business;

(13) Byproduct material shall mean:

(a) Any radioactive material, except special nuclear

material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; ~~or~~ and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations shall not constitute byproduct material;

(14) Source material shall mean:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material shall not include special nuclear material;

(15) Special nuclear material shall mean:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material but shall not include source material; or

(b) Any material artificially enriched by any ~~such materials~~ material listed in subdivision (15)(a) of this section but shall not include source material;

(16) Users of sources of radiation shall mean:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(17) Civil penalty shall mean any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but shall not include criminal penalties;

(18) Closure shall mean all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(19) Decommissioning shall mean final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual

radioactive material, and to carry out any other activities to prepare the site for preoperational care;

(20) Disposal shall mean the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(21) Generate shall mean to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(22) High-level radioactive waste shall mean:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(23) Low-level radioactive waste shall mean radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (13)(b) of this section;

(24) Management of low-level radioactive waste shall mean the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner, except the commercial disposal of low-level radioactive waste in a disposal facility, designated by the Central Interstate Low-Level Radioactive Waste Compact Commission;

(25) Source material mill tailings or mill tailings shall mean the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(26) Source material milling shall mean any processing of ore, including underground solution extraction of unmixed ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(27) Spent nuclear fuel shall mean irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel shall include the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(28) Transuranic waste shall mean radioactive waste containing alpha-emitting transuranic elements, with radioactive half-lives greater than five years, in excess of one hundred nanocuries per gram;

(29) Licensed practitioner shall mean a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician; and

(30) X-ray system shall mean an assemblage of components for the controlled production of X-rays, including, but not limited to, an

X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system shall be considered integral parts of the system.

Sec. 84. That section 71-3507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3507. (1) The department shall adopt and promulgate rules and regulations for the issuance, amendment, suspension, and revocation of general and specific licenses. Such licenses shall be for byproduct material, source material, special nuclear material, and radioactive material not under the authority of the federal Nuclear Regulatory Commission and for devices or equipment utilizing such materials. The rules and regulations shall provide:

(a) For written applications for a specific license which include the technical, financial, and other qualifications determined by the department to be reasonable and necessary to protect occupational and public health and safety and the environment;

(b) For additional written statements and inspections, as required by the department, at any time after filing an application for a specific license and before the expiration of the license to determine whether the license should be issued, amended, suspended, or revoked;

(c) That all applications and statements be signed by the applicant or licensee;

(d) The form, terms, and conditions of general and specific licenses;

(e) That no license or right to possess or utilize sources of radiation granted by a license shall be assigned or in any manner disposed of without the written consent of the department; and

(f) That the terms and conditions of all licenses are subject to amendment by rules, regulations, or orders issued by the department.

(2) The department may require registration or licensing of radioactive material not enumerated in subsection (1) of this section ~~and may~~ in order to maintain compatibility and equivalency with the standards and regulatory programs of the federal government or to protect the occupational and public health and safety and the environment. The department shall require ~~registration or~~ licensure of persons providing measurement and mitigation services of radon or its decay products in order to protect the occupational and public health and safety and the environment. The department shall adopt and promulgate rules and regulations establishing education, experience, training, and examination requirements for radon measurement specialists, radon measurement technicians, radon mitigation specialists, and radon mitigation technicians. The department shall adopt and promulgate rules and regulations establishing staffing, proficiency, quality control, reporting, worker health and safety, equipment, and record-keeping requirements for radon measurement businesses and radon mitigation businesses and mitigation system installation requirements for radon mitigation businesses.

(3) The department may exempt certain sources of

radiation or kinds of uses or users from ~~the~~ licensing or registration requirements established under the Radiation Control Act when the department finds that the exemption will not constitute a significant risk to occupational and public health and safety and the environment.

(4) The department may provide by rule and regulation for the recognition of other state or federal licenses ~~subject to such recognition requirements as the department may prescribe~~ compatible and equivalent with the standards established by the department for Nebraska licensees.

(5) The department may enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with the ~~Radiation Control Act~~ act and rules and regulations adopted and promulgated pursuant to ~~such~~ the act, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

(6) The department shall cause to be registered with the department such sources of radiation as the department determines to be reasonably necessary to protect occupational and public health and safety and the environment as follows:

(a) The department shall, by public notice, establish a date on or before which date such sources of radiation shall be registered with the department, and the department shall provide appropriate forms for such registration. Each application for registration shall be in writing and shall state such information as the department by rules or regulations may determine to be necessary and reasonable to protect occupational and public health and safety and the environment;

(b) Registration of sources of radiation shall be an initial registration with appropriate notification to the department in the case of alteration of equipment, acquisition of new sources of radiation, or the transfer, loss, or destruction of sources of radiation and shall include the registration of persons installing or servicing sources of radiation;

(c) Failure to register or reregister sources of radiation in accordance with rules and regulations adopted and promulgated by the department shall be subject to a fine of not less than fifty dollars nor more than two hundred dollars; and

(d) The department may provide by rule and regulation for reregistration of sources of radiation.

(7) The results of any surveys or inspections of sources of radiation conducted by the department ~~may be withheld from public inspection if disclosure of its contents is not required in the public interest and would adversely affect the interest of a person concerned~~ shall be public records subject to sections 84-712 to 84-712.09. In addition, the following information shall be deemed confidential:

(a) The names of individuals in dosimetry reports;

(b) Emergency response procedures which would present a clear threat to security or disclose names of individuals; and

(c) Any other information that is likely to present a clear

threat to the security of radioactive material. The department shall make such reports of results of surveys or inspections available to the owner or operator of the source of radiation together with any recommendations of the department regarding deficiencies noted.

(8) The department shall have the right to survey or inspect again any source of radiation previously surveyed without limitation of the number of surveys or inspections conducted on a given source of radiation.

(9) The department may enter into contracts with persons or corporations to perform the inspection of X-ray radiation-generating equipment or devices which emit radiation from radioactive materials and to aid the department in the administration of the ~~Radiation Control Act~~ act.

Sec. 85. That section 71-3508.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3508.03. (1) The department shall establish by rule and regulation annual fees for the radioactive materials licenses, for inspections of radioactive materials, ~~and~~ for the registration and inspection of radiation-generating equipment and other sources of radiation, and for radon measurement and mitigation licenses and inspections of radon mitigation systems installations under the Radiation Control Act, except that the annual fee for registration and inspection of X-ray radiation-generating equipment shall not exceed seventy dollars per X-ray machine. In determining such fees, the department shall, as an objective, obtain sufficient funds from the fees to pay for a portion of the direct and indirect costs of administering the ~~Radiation Control Act~~ act without loss or reduction of the General Fund allocation to the department. No fee shall exceed the actual cost to the department for licensure, inspection, or registration. The department may also contract with a registrant, a licensee, another state, or a federal agency to partially or fully recover the cost of administering the ~~Radiation Control Act~~ act. The fees collected shall be deposited in the Department of Health Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering the ~~Radiation Control Act~~ act. The department shall collect such fees. The cost of environmental surveillance activities performed by the department to assess the radiological impact of activities conducted by licensees and registrants shall be in addition to the annual fees.

(2) The department may, upon application by an interested person or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this subsection may include, but shall not be limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

(3) When a registrant or licensee fails to pay the applicable fee, the department may suspend or revoke the registration or license or may issue an appropriate order.

Sec. 86. That section 71-4603, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

71-4603. ~~As used in~~ For purposes of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, unless the context otherwise requires:

(1) Manufactured home shall mean a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained ~~therein~~ in the structure, except that ~~such term~~ manufactured home shall include any structure that meets all of the requirements of this ~~definition~~ subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act, as amended, 42 U.S.C. 5401 et seq. Manufactured home shall also include any manufactured home designed and manufactured with more than one separate living unit for the purpose of multifamily living;

(2) Recreational vehicle shall mean a vehicular type unit, primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. ~~The term recreational~~ Recreational vehicle shall include, but not be limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion;

(3) Travel trailer shall mean a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than three hundred twenty square feet; ~~and of such size or weight as not to require special highway movement permits when towed by a motor vehicle and with a living area of less than two hundred and twenty square feet excluding built in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures, and bath and toilet rooms;~~

(4) Camping trailer shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(5) Truck camper shall mean a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, and designed to be loaded onto and unloaded from the bed of a pickup truck;

(6) Motor home shall mean a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support

systems that meet the departmental standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a potable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply;

(7) Park trailer shall mean a vehicular unit which meets the following criteria:

(a) Built on a single chassis mounted on wheels;

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;

~~(c) A size or weight not required to have special highway movement permits when towed by a motor vehicle;~~

(c) ~~(d)~~ Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices; and

~~(e) Width not exceeding eight body feet and length~~ (d) Having a gross trailer area not exceeding ~~forty body~~ four hundred square feet when in the ~~traveling~~ setup mode;

(8) Van conversion shall mean a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle; but which does not conform to or otherwise meet the definition of a motor home in this section; and ~~that~~ which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the department standard for recreational vehicles. Van conversion ~~; but~~ shall not include any such vehicle that lacks any plumbing, heating, or one-hundred-twenty-nominal-volt electrical system; but contains an extension of the low-voltage automotive circuitry;

(9) Seal shall mean a device or insignia issued by the Department of Health to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with the departmental standards. The federal manufactured-home label shall be recognized as a seal;

(10) Dealer shall mean a person licensed by the state pursuant to Chapter 60, article 14, as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(11) Distributor shall mean any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(12) Manufacturer shall mean any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(13) Manufactured-home construction shall mean all

activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, ~~these~~ activities relating to durability, quality, and safety;

(14) Manufactured home safety shall mean the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(15) Defect shall mean ~~any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof~~ a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended but does not result in an unreasonable risk of injury or death to occupants;

(16) Imminent safety hazard shall mean a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(17) Purchaser shall mean the first person purchasing a manufactured home or recreational vehicle in good faith for purposes other than resale;

(18) Person shall mean any individual, partnership, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles; ~~and~~

(19) Department shall mean the Department of Health;

(20) Serious defect shall mean a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to the occupants;

(21) Noncompliance shall mean a failure to comply with an applicable construction standard that does not constitute a defect, a serious defect, or an imminent safety hazard;

(22) Failure to conform shall mean a defect, a serious defect, noncompliance, or an imminent safety hazard related to the code;

(23) Fifth-wheel trailer shall mean a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle; and

(24) Gross trailer area shall mean the total plan area measured on the exterior to the maximum horizontal projections of

exterior wall in the setup mode and shall include all siding, corner trims, moldings, storage spaces, expandable room sections regardless of height, and areas enclosed by windows but shall not include roof overhangs. Storage lofts contained within the basic unit shall have ceiling heights less than five feet and shall not constitute additional square footage.

Sec. 87. That section 71-4604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4604. All body and frame design and construction and all plumbing, heating, and electrical systems installed in manufactured homes or recreational vehicles manufactured more than four months after May 27, 1975, and sold, offered for sale, or leased in this state shall be at least equal to the standards adopted and approved by the department by regulation. The standards adopted by the department pertaining to manufactured homes shall conform to the Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, and the Manufactured Home Procedural and Enforcement Regulations, 24 C.F.R. 3282, adopted by the United States Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq. Manufactured homes and recreational vehicles destined for sale outside the United States shall be exempt from such regulations if sufficient proof of such delivery is submitted to the Department of Health for review. The department may adopt standards pertaining to manufactured homes designed and manufactured for the purpose of multifamily living, which standards shall protect the health and safety of persons living in multifamily manufactured homes and ~~which~~ may include, but need not be limited to, requirements for fire safety, thermal protection, water and fuel shutoff valves, fuel supply inlets, circulation air systems, and electrical systems. Multifamily manufactured homes manufactured in this state solely for purposes of sale in any other state or jurisdiction shall be exempt from the requirements of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. The standards pertaining to recreational vehicles shall (1) protect the health and safety of persons living in recreational vehicles, (2) assure reciprocity with other states that have adopted standards which protect the health and safety of persons living in recreational vehicles the purpose of which is to make uniform the law of those states which adopt them, and (3) allow variations from such uniform standards as will reduce unnecessary costs of construction or increase safety, durability, or efficiency, including energy efficiency, of the recreational vehicle without jeopardizing such reciprocity.

Sec. 88. That section 71-4604.01, Revised Statutes Supplement, 1992, be amended to read as follows:

71-4604.01. (1) Every manufactured home or recreational vehicle manufactured more than four months after May 27, 1975, which is sold, offered for sale, or leased in this state shall bear a seal issued by the department certifying that the body and frame design and construction and the plumbing, heating, and electrical systems of such manufactured home or recreational vehicle have been installed in compliance with the

standards adopted by the department, applicable at the time of manufacture. Manufactured homes and recreational vehicles destined for sale outside the United States shall be exempt from displaying the seal issued by the department if sufficient proof of such delivery is submitted to the department for review. The department shall issue the recreational vehicle seal upon an inspection of the plans and specifications for the ~~manufactured home or~~ recreational vehicle or upon an actual inspection of the ~~manufactured home or~~ recreational vehicle during or after construction; if the recreational vehicle is in compliance with the departmental standards. The department shall issue the manufactured home seal in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq. Each seal issued by the department shall remain the property of the department and may be revoked by the department in the event of a violation of the conditions of issuance.

(2) A fee of not less than ten dollars nor more than ~~thirty five~~ fifty dollars, as determined by departmental regulation, shall be charged for each seal issued by the department. A seal shall be placed on each living unit within a multifamily manufactured home, and the seal fee assessed for each living unit shall be one-half of the seal fee for a single-family manufactured home. Inspection fees shall be paid for all departmental inspections of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual departmental travel, personnel, and inspection expenses only and shall be paid prior to any issuance of seals.

(3) The department shall adopt and promulgate rules and regulations governing the submission of plans and specifications of manufactured homes and recreational vehicles. A person who submits recreational vehicle plans and specifications to the department for review and approval shall be charged for departmental engineering services provided for performing the review of the plans and specifications and related functions at a rate of not less than fifteen dollars per hour nor more than ~~thirty~~ fifty dollars per hour as determined by rule and regulation based on the number of hours of review time ~~allotted to the type of plan submitted~~ as follows:

~~(a) Manufactured home:~~
~~(i) New model, two hours;~~
~~(ii) Quality control manual, six hours;~~
~~(iii) Typicals, one and one-half hours;~~
~~(iv) Revisions, one hour;~~
~~(v) Engineering calculations, one and one-half hours;~~
~~(vi) New component, one and one-half hours;~~
~~(vii) Initial certification, sixty hours; and~~
~~(viii) Recertification, forty hours; and~~
~~(b) Recreational vehicle:~~
~~(i)~~ New model, one hour;
~~(ii)~~ (b) Quality control manual, two hours;
~~(iii)~~ (c) Typicals, one-half hour;

~~(iv)~~ (d) Revisions, three-fourths hour;
~~(v)~~ (e) Engineering calculations, three-fourths hour;
~~(vi)~~ (f) Initial package, fifteen hours; and
~~(vii)~~ (g) Yearly renewal, two hours plus the three-fourths hour for revisions.

(4) The department shall charge each manufacturer a fee of seventy-five dollars for each inspection of any new recreational vehicle manufactured by such manufacturer and not bearing a seal issued by the State of Nebraska or some reciprocal state.

(5) All fees collected pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles 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 ~~Uniform Standard Code for Manufactured Homes and Recreational Vehicles~~ code.

Sec. 89. That section 71-4606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4606. If any other state has plumbing, heating, electrical, or body and frame design and construction codes for ~~manufactured homes or~~ recreational vehicles at least equal to those established under the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the department, upon determining that such standards are being enforced by such other state, shall place such other state on a reciprocity list, which list shall be available to any interested person. Any ~~manufactured home or~~ recreational vehicle which bears the seal of any state which has been placed on the reciprocity list shall not be required to bear the seal issued by this state. A manufactured home or recreational vehicle manufactured more than four months after May 27, 1975, which does not bear the federal manufactured home label or the recreational vehicle seal issued by the department or by a state which has been placed on the reciprocity list shall not be permitted to be manufactured, offered for sale, sold, or leased by a manufacturer, dealer, or any other person anywhere within this state nor delivered from this state into any other state or jurisdiction unless destined for sale outside the United States. If a ~~manufactured home or~~ recreational vehicle has a certificate of title or other certification from a state on the reciprocity list, a dealer may sell it unless he or she has actual knowledge that the ~~manufactured home or~~ recreational vehicle does not meet the standards of the state which has issued a certificate of title or other certification for it, so long as it bears the seal issued by the department or a state on the reciprocity list. No dealer or distributor shall sell a manufactured home or recreational vehicle if it contains a defect, a serious defect, or an imminent safety hazard.

Sec. 90. That section 71-4608, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4608. (1) Any person who is in violation of any provision of the Uniform Standard Code for Manufactured Homes and

Recreational Vehicles regarding a used manufactured home or new or used multifamily manufactured home or recreational vehicle or who manufactures; unless destined for sale outside the United States, sells, offers for sale, or leases in this state any used manufactured home or new or used multifamily manufactured home or recreational vehicle manufactured more than four months after May 27, 1975, which does not bear the federal manufactured home label or the recreational vehicle seal issued by the department or by a state which has been placed on the reciprocity list as required by the ~~Uniform Standard Code for Manufactured Homes and Recreational Vehicles~~ code shall be guilty of a Class I misdemeanor.

(2) Any person who violates any of the provisions enumerated in this section or rules and regulations adopted and promulgated by the department relating to manufactured homes and recreational vehicles shall be liable for a civil penalty not to exceed one thousand dollars for each violation. Each such violation shall constitute a separate violation with respect to each manufactured home or recreational vehicle, except that the maximum penalty shall not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation. No person shall:

(a) Manufacture for sale, lease, sell, offer for sale or lease, or introduce, deliver, or import into this state any manufactured home or recreational vehicle which is manufactured on or after the effective date of any applicable ~~Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280,~~ departmental standard which does not comply with such ~~standards~~ standard;

(b) Fail or refuse to permit access to or copying of records, fail to make reports or provide information, or fail or refuse to permit entry or inspection as provided in section 71-4610;

(c) Fail to furnish notification to the purchaser of any manufactured home of any defect as required by 42 U.S.C. 5414 or to the purchaser of any recreational vehicle as provided in section 71-4616;

(d) Fail to issue a certification required by 42 U.S.C. 5415 or issue a certification to the effect that a manufactured home conforms to all applicable Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(e) Fail to establish and maintain such records, make such reports, and provide such information as the department may reasonably require to enable it to determine whether there is compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq., or the standards adopted by the department for recreational vehicle construction or fail to permit, upon request of a person duly authorized by the department, inspection of appropriate books, papers, records, and documents relative to determining whether a manufacturer, distributor, or dealer has acted or is acting in compliance with the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or with the National Manufactured Housing

Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq.; or

(f) Issue a certification pursuant to 42 U.S.C. 5403(a) if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.

(3) Subdivision (2)(a) of this section shall not apply to the sale or the offer for sale of any manufactured home or recreational vehicle after the first purchase of it in good faith for purposes other than resale.

(4) Subdivision (2)(a) of this section shall not apply to any person who establishes that he or she did not have reason to know in the exercise of due care that such manufactured home or recreational vehicle was not in conformity with applicable Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, or the standards adopted by the department for recreational-vehicle construction or any person who, prior to such first purchase, holds a certificate by the manufacturer or importer of such manufactured home or recreational vehicle to the effect that such manufactured home conforms to all applicable Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, or that such recreational vehicle conforms to the standards adopted by the department for recreational-vehicle construction unless such person knows that such manufactured home or recreational vehicle does not so conform.

(5) Any person or officer, director, or agent of a corporation who willfully or knowingly violates subsection (2) of this section in any manner which threatens the health or safety of any purchaser shall be guilty of a Class I misdemeanor.

Sec. 91. That section 71-4609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4609. (1) The department ~~is hereby charged with the administration of~~ shall administer the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. The department may adopt and promulgate, amend, alter, or repeal general rules and regulations of procedure for (a) administering the provisions of the code, (b) issuing ~~of~~ seals, (c) obtaining statistical data respecting the manufacture and sale of manufactured homes and recreational vehicles, and (d) prescribing means, methods, and practices to make effective such provisions.

(2) The department shall appoint an advisory committee of seven members, which ~~shall have the authority to~~ committee may review the rules, regulations, and standards of the department pertaining to manufactured homes and recreational vehicles and ~~to~~ recommend changes, ~~relative thereto.~~ The committee shall represent a cross section of those having an extensive interest in manufactured-home or recreational-vehicle body and frame design and construction or plumbing, heating, or electrical systems. The committee shall serve at the pleasure of the department.

(3) The department shall refuse to issue a seal to any manufacturer or other person for any manufactured home or recreational vehicle found to be not in compliance with departmental standards

governing body and frame design and construction or plumbing, heating, or electrical systems for manufactured homes or recreational vehicles or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer or other person may request a hearing before the department on the issue of such refusal. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The refusal by the department may be appealed, and the appeal shall be in accordance with the ~~Administrative Procedure Act~~ act.

(4) The issuance of seals may be suspended or revoked as to any manufacturer or other person who has not complied with any provision of the ~~Uniform Standard Code for Manufactured Homes and Recreational Vehicles~~ code or with any rule, regulation, or standard adopted and promulgated under the code or who is convicted of violating section 71-4608, and issuance of the seals shall not be resumed until such manufacturer or other person submits sufficient proof that the conditions which caused the lack of compliance or the violation have been remedied. Any manufacturer or other person may request a hearing before the department on the issue of such suspension or revocation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The suspension or revocation by the department may be appealed, and the appeal shall be in accordance with the ~~Administrative Procedure Act~~ act.

(5) The department ~~is authorized to~~ may conduct hearings and presentations of views consistent with the regulations adopted by the United States Department of Housing and Urban Development and ~~to~~ adopt and promulgate such rules and regulations as are necessary to carry out this function.

(6) The department shall establish a monitoring inspection fee in an amount ~~established~~ approved by the United States Secretary of Housing and Urban Development, which ~~. This monitoring inspection~~ fee shall be an amount paid to the department by the manufacturer for each ~~manufactured home produced~~ manufactured-home seal issued in the state. An additional ~~The~~ monitoring inspection fee established by the United States Secretary of Housing and Urban Development shall be paid by the manufacturer to the ~~United States Secretary of Housing and Urban Development~~ secretary who shall distribute the fees collected from all manufactured-home manufacturers ~~from among the approved and conditionally approved states based on the number of new manufactured homes whose first location after leaving the manufacturing plant is on the premises of a distributor, dealer, or purchaser in such state~~ based on provisions developed and approved by the secretary.

Sec. 92. That section 71-4610, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4610. (1) The department ~~is authorized to~~ may conduct inspections and investigations as may be necessary to enforce the standards adopted under the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or to carry out its duties pursuant

~~thereto~~ to the code. The department shall furnish the appropriate state and county officials any information obtained indicating noncompliance with such standards for appropriate action.

(2) For purposes of enforcement of the ~~Uniform Standard Code for Manufactured Homes and Recreational Vehicles~~ code and the rules, regulations, and standards adopted and promulgated by the department pursuant ~~thereto~~ to the code, persons duly designated by the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, ~~are authorized to~~ may:

(a) Enter, at reasonable times and without advance notice, any factory, warehouse, or other establishment or place in which manufactured homes or recreational vehicles are manufactured, stored, offered for sale, or held for lease or sale; and

(b) Inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or other establishment or place; and ~~to~~ inspect such books, papers, records, and documents as are set forth in section 71-4611. Each such inspection shall be commenced and completed with reasonable promptness.

~~(3) The department may contract with private inspection organizations to carry out its functions under this section. If the department appoints nongovernmental inspectors or inspection agencies as its authorized representatives to carry out such inspections, the department shall at all times exercise supervisory control over such inspectors or agencies to insure effective and uniform enforcement of departmental standards. No person may interfere with, obstruct, or hinder an authorized representative of the department in the performance of such an inspection.~~

Sec. 93. That section 71-4611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4611. For ~~the purpose~~ purposes of carrying out the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the department ~~is authorized to~~ may:

(1) Hold such hearings, take such testimony, act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memoranda, contracts, agreements, or other records as the department deems advisable. Witnesses summoned pursuant to this section shall be paid the same fees as are paid witnesses in the district courts of the state and mileage as provided in section 81-1176; ~~for state employees~~;

(2) Examine and copy any documentary evidence of any person having materials or information relevant to any function of the department under the code;

(3) Require, by general or special orders, any person to file, in such form as the department may prescribe, reports or answers in writing to specific questions relating to any function of the department under the code. Such reports and answers shall be made under oath or otherwise and shall be filed with the department within such reasonable

period as the department may prescribe; and

(4) Make available to the public any information which may indicate the existence of a ~~defect~~ failure to comply which relates to manufactured-home or recreational-vehicle construction or safety or of the failure of a manufactured home or recreational vehicle to comply with applicable standards. The department shall disclose so much of other information obtained under this subdivision to the public as it determines will assist in carrying out the code, but it shall not under the authority of this subdivision make available or disclose to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the person furnishing such information at a substantial competitive disadvantage, unless the department determines that it is necessary to carry out the purposes of the code.

Sec. 94. That section 71-4613, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4613. Each manufacturer of manufactured homes which selects the department to perform plan review shall:

(1) Submit, in accordance with regulations and standards adopted by the United States Secretary of Housing and Urban Development, the building plans for every model of its manufactured homes to the department for the purpose of inspection. The manufacturer shall certify that each building plan meets the standards in force at that time before the respective model is produced;

(2) Establish and maintain records, make reports, and provide information as the department may reasonably require to enable it to determine whether such manufacturer or any distributor or dealer has acted or is acting in compliance with the Uniform Standard Code for Manufactured Homes and Recreational Vehicles and standards adopted pursuant thereto;

(3) Upon request of a person duly designated by the department, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer or any distributor or dealer has acted or is acting in compliance with the code and standards adopted pursuant ~~thereto~~ to the code; and

(4) Provide to the department all performance data and other technical data related to performance and safety as may be required by the department to carry out the purposes of the code. Such data shall include records of tests and test results which the department may require to be performed.

Sec. 95. That section 71-4614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4614. The department may require the manufacturer to give notification of performance and technical data to:

(1) Each prospective purchaser ~~of a manufactured home~~ before ~~its~~ the first sale for purposes other than resale at each location where any such manufacturer's manufactured homes or recreational vehicles are offered for sale by a person with whom such manufacturer

has a contractual, proprietary, or other legal relationship and in a manner determined by the department to be appropriate, which notification may include, but need not be limited to, printed matter that is both available for retention by such prospective purchaser and sent by mail to such prospective purchaser upon his or her request; and

(2) The first person who purchases a manufactured home or recreational vehicle for purposes other than resale, at the time of such purchase or in printed matter placed in the manufactured home or recreational vehicle.

Sec. 96. That section 71-4616, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4616. (1) Every manufacturer ~~of manufactured homes~~ shall furnish notification of any ~~defect~~ failure to conform in any manufactured home or recreational vehicle produced by such manufacturer which ~~he or she~~ the manufacturer determines, in good faith, violates a standard adopted by the department or ~~contains a defect~~ which constitutes an imminent safety hazard or serious defect in a single manufactured home or recreational vehicle or noncompliance determined to be in a class of manufactured homes or recreational vehicles to the purchaser of such manufactured home or recreational vehicle, within a reasonable time after such manufacturer has discovered the ~~defect~~ failure to conform.

(2) The notification required by this section shall be accomplished:

(a) By certified mail to the first purchaser, not including any dealer or distributor of such manufacturer, of the manufactured home or recreational vehicle containing the ~~defect~~ failure to conform and to any subsequent purchaser to whom any warranty on such manufactured home or recreational vehicle has been transferred;

(b) By certified mail to any other person who is a registered owner of such manufactured home or recreational vehicle and whose name and address has been ascertained pursuant to procedures established under section 71-4619; and

(c) By certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such manufactured home or recreational vehicle was delivered.

(3) The notification required by subsection (1) of this section shall contain a clear description of such ~~defect or~~ failure to ~~comply~~ conform, an evaluation of the risk to ~~manufactured home occupants~~ occupant safety reasonably related to such ~~defect~~ failure to conform, and a statement of the measures needed to repair the ~~defect~~ failure to conform. The notification shall also inform the owner whether the ~~defect~~ failure to conform is a construction or safety ~~defect~~ failure to conform which the manufacturer will have corrected at no cost to the owner of the manufactured home or recreational vehicle or a ~~defect~~ failure to conform which must be corrected at the expense of the owner.

Sec. 97. That section 71-4617, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4617. Every manufacturer ~~of manufactured homes~~ shall furnish to the department a true or representative copy of all notices, bulletins, and other communications sent to the dealers of the manufacturer or to purchasers of manufactured homes or recreational vehicles of the manufacturer regarding any ~~defect in any~~ imminent safety hazard or serious defect in a single manufactured home or recreational vehicle or a noncompliance determined to be in a class of manufactured ~~home~~ homes or recreational vehicles produced by the manufacturer. The department shall disclose to the public so much of the information contained in such notices or other information obtained pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles as it deems will assist in carrying out the purposes of the code, but it shall not disclose any information which contains or relates to a trade secret~~;~~ or which, if disclosed, would put the manufacturer at a substantial competitive disadvantage, unless ~~it~~ the department determines that ~~it~~ such disclosure is necessary to carry out the purposes of the code.

Sec. 98. That section 71-4618, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4618. (1) If the department determines that any manufactured home or recreational vehicle (a) does not comply with an applicable standard adopted by the department or (b) contains a ~~defect~~ failure to conform which constitutes an imminent safety hazard or serious defect in a single manufactured home or recreational vehicle or a noncompliance determined to be in a class of manufactured homes or recreational vehicles, it shall immediately notify the manufacturer ~~of such manufactured home~~ of such ~~defect or~~ failure to ~~comply~~ conform. The notice shall contain the findings of the department and shall include all information upon which the findings are based.

(2) The department shall afford such manufacturer an opportunity to present ~~his or her~~ its views and supporting evidence ~~in support thereof~~ to establish that there is no failure ~~of compliance~~ to conform. If, after such presentation by the manufacturer, the department determines that ~~such manufactured home does not comply~~ there is a failure to conform with applicable departmental standards or ~~contains~~ a ~~defect~~ failure to conform which constitutes a serious defect or an imminent safety hazard, the department shall direct the manufacturer to furnish the notification specified in section 71-4616.

Sec. 99. That section 71-4619, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4619. Every manufacturer ~~of manufactured homes~~ shall maintain a record of the name and address of the first purchaser of each manufactured home or recreational vehicle for purposes other than resale and, to the maximum extent feasible and reasonable, shall maintain procedures for ascertaining the name and address of any subsequent purchaser ~~thereof~~ and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each manufactured home or recreational vehicle produced by a manufacturer. The department may

establish by rule and regulation procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this section.

Sec. 100. That section 71-4620, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4620. (1) A manufacturer required to furnish notification of a ~~defect~~ failure to conform under section 71-4616 or 71-4618 shall also bring the manufactured home or recreational vehicle into compliance with applicable departmental standards and correct the failure to conform ~~defect~~ or have the ~~defect~~ failure to conform corrected within a reasonable period of time at no expense to the owner if the ~~defect~~ failure to conform presents an unreasonable risk of injury or death to occupants ~~of the affected manufactured home~~ and the ~~defect~~ failure to conform can be related to an error by the manufacturer in design or assembly, ~~of the manufactured home.~~

(2) The department may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons. Nothing in this section shall limit the rights of the purchaser or any other person under any contract or applicable law.

(3) The manufacturer shall submit a remedy plan for repairing such ~~defect~~ failure to conform to the department for its approval, or the manufacturer shall notify the department of the corrective action it has taken and request departmental approval. Whenever a manufacturer is required to correct a ~~defect~~ failure to conform, the department shall approve with or without modification, after consultation with the manufacturer, ~~of the manufactured home involved,~~ the manufacturer's remedy plan, including the date when, and the method by which, the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one, but shall not be more than sixty days after the date of discovery or determination of the ~~defect or~~ failure to ~~comply~~ conform, unless the department grants an extension of such period for good cause shown. The manufacturer shall implement any remedy plan approved by the department.

(4) When a ~~defect or~~ failure to ~~comply in a manufactured home~~ conform cannot be adequately repaired within sixty days from the date of discovery or determination of the ~~defect~~ failure to conform, the department may require that the manufactured home or recreational vehicle be replaced with a new or equivalent manufactured home or recreational vehicle without charge or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use if the manufactured home or recreational vehicle has been in the possession of the owner for more than one year.

Sec. 101. That section 71-5668, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5668. Each loan repayment recipient shall execute an agreement with the state. Such agreement shall include, at a minimum,

the following terms:

(1) The loan repayment recipient agrees to practice full-time primary care or psychiatry in a designated medical profession shortage area for the equivalent of at least two years; and

(2) In consideration of the agreement by the recipient, the State of Nebraska agrees to pay an amount up to ten thousand dollars per year per recipient for physicians and up to five thousand dollars per year per recipient for physician assistants toward qualified educational debts for a maximum of four years. Such payment shall be made directly to the ~~lending institution~~ recipient and shall consist of quarterly payments of up to two thousand five hundred dollars to be made upon completion of three months of full-time practice.

Sec. 102. That section 71-6201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6201. Sections 71-6201 to ~~71-6230~~ 71-6229 and sections 104 to 106 of this act shall be known and may be cited as the Nebraska Regulation of Health Professions Act.

Sec. 103. That section 71-6203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6203. For purposes of the Nebraska Regulation of Health Professions Act, unless the context otherwise requires, the definitions found in sections 71-6204 to 71-6220.01 and sections 104 and 105 of this act shall be used.

Sec. 104. Chairperson shall mean the chairperson of the Health and Human Services Committee of the Legislature.

Sec. 105. Directed review shall mean a review conducted at the request of the director and the chairperson in which (1) there shall be no applicant group or application, (2) the duty of the committee shall be to formulate an initial proposal on the issues subject to review, and (3) the duty of the board and the director shall be to evaluate the proposal using the appropriate criteria and to make recommendations to the Legislature.

Sec. 106. At any time the director and the chairperson may initiate a directed review to determine the advisability of credentialing a health professional group not previously regulated, of changing the scope of practice of a regulated health profession, or of other issues regarding the regulation of health professions. Before initiating a directed review, the director and the chairperson shall determine that no appropriate applicant group exists. No letter of intent, applicant group, application, or application fee shall be required in a directed review. The duty of the committee in a directed review shall be to investigate the issues that are the subject of the review, to hold a public hearing to receive information from the public on the issues, to develop a specific proposal to address the issues investigated taking into account the appropriate criteria as set forth in section 71-6221, and to prepare a final report containing the committee's proposal, other options considered, and other relevant information.

Sec. 107. That section 71-7101, Revised Statutes

Supplement, 1992, be amended to read as follows:

71-7101. Sections 71-7101 to 71-7111 and section 108 of this act shall be known and may be cited as the Critical Incident Stress Debriefing Act.

Sec. 108. Any information acquired during a debriefing session shall be confidential and shall not be disclosed except to the extent necessary to provide assistance pursuant to the debriefing session. Information otherwise available from the original source shall not be immune from discovery or use in any civil or criminal action merely because the information was presented during a debriefing session if the testimony sought is otherwise permissible and discoverable.

Sec. 109. That section 79-444.01, Revised Statutes Supplement, 1992, be amended to read as follows:

79-444.01. ~~Each~~ Except as provided in sections 110 to 112 of this act, each board of education and the governing authority of each school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to ~~November 1 of each school year for original enrollees or, in the case of a student transferring from another school, within sixty days after the enrollment date, unless a parent or guardian of such student presents a written statement that he or she does not wish to have such student so immunized. Such written statement shall be kept in the student's file. Any~~ enrollment, and any student who does not comply with this section shall not be permitted to continue in school until he or she shall so comply except as provided by section 111 of this act. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

Except as provided in the Childhood Vaccine Act, the cost of such immunization shall be borne by the parent or guardian of each student who is immunized or by the Department of Health for those students whose ~~parents or guardian are~~ parent or guardian is financially unable to meet such cost.

Sec. 110. Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician licensed under the Uniform Licensing Law stating that, in the physician's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

Sec. 111. A student may be provisionally enrolled in a school in Nebraska if he or she has begun the immunizations required

under section 79-444.01 and continues to receive the necessary immunizations as rapidly as is medically feasible.

Sec. 112. The Department of Health may modify, add to, or delete from the list of required immunizations in section 79-444.01.

Sec. 113. That section 81-642, Revised Statutes Supplement, 1992, be amended to read as follows:

81-642. It is the intent of the Legislature to require the establishment and maintenance of a cancer registry for the State of Nebraska. This responsibility is delegated to the Department of Health along with the authority to exercise the necessary powers to implement sections 81-642 to 81-650. To insure an accurate and continuing source of data concerning cancer, all hospitals within the state shall make available to the Department of Health upon its request, at least once a year, information contained in the medical records of patients who have cancer within such time following its diagnosis as the department shall require. Any medical doctor, osteopathic physician, or dentist within the state may make such information available to the department upon request by the department. This cancer registry should provide a central data bank of accurate, precise, and current information which medical authorities state will assist in the research for the prevention, cure, and control of cancer. The information contained in the cancer registry may be used as a source of data for scientific and medical research. Any information released from the cancer registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 1 to 13 of this act.

Sec. 114. That section 81-643, Revised Statutes Supplement, 1992, be amended to read as follows:

81-643. As used in sections 81-642 to 81-650, unless the context otherwise requires, the definitions in section 2 of this act shall be used and:

~~(1) Aggregate data shall mean data contained in the cancer registry which is compiled in a statistical format and which does not include patient identifying data;~~

~~(2) Approved researcher shall mean an individual or entity who is approved by the department in accordance with section 81-647 to obtain access to data contained in the cancer registry to assist in scientific or medical research for the prevention, cure, or control of cancer;~~

(1) ~~(3)~~ Cancer shall mean: (a) A large group of diseases characterized by an uncontrolled growth and spread of abnormal cells; (b) any condition of tumors having the properties of anaplasia, invasion, and metastasis; (c) a cellular tumor the natural course of which is fatal; and (d) malignant neoplasm. Cancer shall be deemed to include, but not be limited to, carcinoma, sarcoma, melanoma, lymphoma, Hodgkin's disease, and myeloma, but shall not include precancerous conditions, benign polyps, or benign tumors; and

(2) ~~(4)~~ Cancer registry shall mean the system of reporting established by sections 81-642 to 81-650 in which the cases of cancer in this state are reported and recorded in order to achieve the goals of

prevention, cure, and control of cancer through research and education. ~~;~~

~~(5) Case specific data shall mean data contained in the cancer registry concerning a specific individual other than patient identifying data;~~

~~(6) Department shall mean the Department of Health; and~~

~~(7) Patient identifying data shall mean the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient.~~

Sec. 115. That section 81-644, Revised Statutes Supplement, 1992, be amended to read as follows:

81-644. The department shall establish and maintain a cancer registry that includes a record of the cases of cancer that occur within the state and such information concerning these cases which the department determines necessary and appropriate to provide a basic source of information to further scientific and medical research for the prevention, cure, and control of cancer. Any information released from the registry shall be disclosed as Class I, Class II, Class III, and Class IV data as provided in sections 1 to 13 of this act.

Sec. 116. That section 81-645, Revised Statutes Supplement, 1992, be amended to read as follows:

81-645. In order to implement the intent and purposes of sections 81-642 to 81-650, the department shall:

~~(1) Adopt and promulgate necessary rules and regulations, including rules and regulations for the frequency and form of information submitted and for standards and procedures for approving researchers;~~

~~(2) Execute contracts that the department considers necessary;~~

~~(3) Receive and record the data obtained from the medical records of persons having cancer;~~

(1) ~~(4)~~ Compile and publish a statistical report annually or at reasonable intervals containing information obtained from patient data pursuant to such sections in order to provide accessible information useful to physicians, medical personnel, and the public. Such report shall comply with sections 1 to 13 of this act;

(2) ~~(5)~~ Comply with all necessary requirements in order to obtain funds or grants;

(3) ~~(6)~~ Coordinate with existing statewide cancer registry programs to the extent feasible; and

(4) ~~(7)~~ Consult with medical professionals, hospital tumor registries, and medical records representatives in formulating the plans and policies of the cancer registry program.

Sec. 117. That section 81-647, Revised Statutes Supplement, 1992, be amended to read as follows:

81-647. (1) All data obtained from medical records of individual patients is for the confidential use of the department and the private or public persons or entities that the department determines may view such records as provided in sections 1 to 13 of this act. ~~in order to carry out the intent of sections 81-642 to 81-650. Such information shall~~

~~be privileged and shall not otherwise be divulged or made public so as to disclose the identity of an individual whose medical records have been used for acquiring data. Statistical information collected pursuant to such sections shall be open and accessible to the public and such statistical information shall not be considered medical records pursuant to section 84-712.05. The cost of data retrieval and data processing shall be paid by the researchers and private or public entities or individuals requesting data from the cancer registry.~~

(2) The department may approve individuals or entities to obtain access to case-specific data or case-specific and patient-identifying data to assist in their research for prevention, cure, or control of cancer. Any information released from the cancer registry shall be disclosed as provided in sections 1 to 13 of this act. ~~upon application and proof satisfactory to the department that the applicant is a qualified researcher, that the data will be used for bona fide scientific or medical research for prevention, cure, or control of cancer, and that the applicant will maintain the confidentiality and security of data obtained. The application shall contain, but shall not be limited to, the following information:~~

~~(a) The qualifications of the applicant and of the principal investigator if other than the applicant, including education, experience, prior publications, and recommendations of professional colleagues who have knowledge of and experience in scientific or medical research;~~

~~(b) The purpose of the research project, a summary of the project, and the anticipated time of completion of such project;~~

~~(c) The location where the research project will be conducted and the equipment, personnel, and other resources available to the applicant to carry out the project;~~

~~(d) The identity of the individual or entity funding the research project, a description of the availability of funds for the research project, and any conditions on the receipt or continuation of such funding;~~

~~(e) The specific data requested and a description of the use to be made of such data and, if patient identifying data is requested, a substantiation of the need for access to such patient identifying data;~~

~~(f) A description of the measures to be taken to secure the data and maintain the confidentiality of such data during the research project, for disposal of the data upon completion of the study, and to assure that the results of the study will not divulge or make public information that will disclose the identity of any individual patient;~~

~~(g) If contact with a patient or patient's family is planned or expected, substantiation of the need for such contact and a description of the method to be used to obtain permission from the patient's physician for such contact; and~~

~~(h) Such additional information as the department determines to be necessary to assure that release of data to the applicant is appropriate and will further the purposes of sections 81-642 to 81-650.~~

~~(3) The approved researcher shall submit the reports or results of the research project to the department. The department shall review such reports or results and shall prohibit publication of confidential~~

~~information. A person or entity shall acknowledge the department and its cancer registry in any publication in which information obtained through the registry is used.~~

(3) ~~(4)~~ For ~~the purpose~~ purposes of protecting the public health, local health departments in Nebraska, health departments or cancer registries located in other states, and the Centers for Disease Control and Prevention and the National Cancer Institute of the United States Department of Health and Human Services or their successors may have access to the data contained in the cancer registry upon the department's approval based on the entity's written application and compliance with the confidentiality, nondisclosure, and patient contact provisions of sections ~~81-642 to 81-650~~ 1 to 13 of this act.

Sec. 118. That section 81-648, Revised Statutes Supplement, 1992, be amended to read as follows:

81-648. No hospital, medical doctor, osteopathic physician, or dentist nor any administrator, officer, or employee of such hospital or office in which any such professional practices take place who is in compliance with sections 81-642 to 81-650 and sections 1 to 13 of this act shall be civilly or criminally liable for divulging the information required pursuant to such sections. The department or any of its officials or employees shall not be liable civilly or criminally for the release of information contained in the cancer registry or for the conduct or activities of any individual or entity permitted access to data of the cancer registry if done pursuant to sections 1 to 13 of this act.

Sec. 119. That section 81-649, Revised Statutes Supplement, 1992, be amended to read as follows:

81-649. Sections 81-642 to 81-650 shall not be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains registry data pursuant to such sections or sections 1 to 13 of this act shall contact a patient or such patient's family without first obtaining the permission of a physician actively involved in the care of such patient.

Sec. 120. That section 81-655, Revised Statutes Supplement, 1992, be amended to read as follows:

81-655. The department shall establish and maintain a central registry of information concerning persons with brain or head injury that occurs within the state, which information the department deems necessary and appropriate for the statistical identification and planning for treatment and rehabilitation of persons with brain or head injury and prevention of such injury. Any information released from the registry shall be disclosed as Class I, Class II, and Class IV data as provided in sections 1 to 13 of this act.

Sec. 121. That section 81-656, Revised Statutes Supplement, 1992, be amended to read as follows:

81-656. In order to implement the intent and purposes of section 81-653, the department shall:

(1) Adopt and promulgate necessary rules and regulations,

including a uniform system of classification of brain or head injury which is consistent with medically and clinically accepted standards and definitions for use in reporting by treating medical personnel and hospitals. The department shall be guided by the standards and definitions of the International Classification of Disease, Clinical Modification Coding System of the World Health Organization;

~~(2) Execute contracts that the department deems necessary;~~

~~(3) Receive and record the data obtained from the medical records of persons with brain or head injury;~~

(2) ~~(4)~~ Compile and publish a statistical report annually or at reasonable intervals containing information obtained from patient data pursuant to ~~such~~ sections 81-653 to 81-661 in order to provide accessible information useful to medical personnel and the public. Such report shall be Class I data as described in section 5 of this act and shall comply with sections 1 to 13 of this act; and

(3) ~~(5)~~ Comply with all necessary requirements in order to obtain funds or grants.

Sec. 122. That section 81-659, Revised Statutes Supplement, 1992, be amended to read as follows:

81-659. No patient-identifying data as defined in section ~~81-643~~ 2 of this act shall be divulged, made public, or released by the department to any public or private person or entity. All other data obtained from medical records of persons sustaining brain or head injury is for the confidential use as Class I, Class II, or Class IV data of the department and the private or public persons or entities that the department determines may view such records as provided in sections 1 to 13 of this act. ~~in order to carry out sections 81-653 to 81-661. Such information shall be privileged and shall not otherwise be divulged or made public so as to disclose the identity of a person whose medical records have been used for acquiring data. Statistical information developed or collected pursuant to such sections shall be open and accessible to the public and shall not be considered medical records pursuant to section 84-712.05.~~

Sec. 123. That section 81-660, Revised Statutes Supplement, 1992, be amended to read as follows:

81-660. No physician, psychologist, hospital, or administrator, officer, or employee of a hospital or medical professional who is in compliance with sections 81-657 and 81-658 and sections 1 to 13 of this act shall be civilly or criminally liable for divulging the information required pursuant to ~~such~~ sections 81-657 and 81-658.

Sec. 124. That Laws 1990, LB 551, section 32, as amended by Laws 1992, LB 1019, section 127, be amended to read as follows:

Sec. 32. Sections 29, 32, and 33 of this act shall become operative on their effective date. The other sections of this act shall become operative on January 1, ~~1994~~ 1995.

Sec. 125. Sections 20 to 42, 47, and 126 of this act shall become operative on January 1, 1994. Sections 109 to 112 and 127 of

this act shall become operative on July 1, 1994. The other sections of this act shall become operative on their effective date.

Sec. 126. That original section 71-1,132.47, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 127. That original section 79-444.01, Revised Statutes Supplement, 1992, is repealed.

Sec. 128. That original sections 71-1,147, 71-1,147.09, 71-1,147.10, 71-1,147.13, 71-1,147.33, 71-1,232, 71-646, 71-647, 71-1717, 71-1721.04, 71-1721.06, 71-1722, 71-1724, 71-1724.01, 71-1735, 71-1743, 71-1753, 71-1755, 71-1757, 71-1758, 71-1759, 71-2407, 71-3501, 71-3503, 71-3507, 71-3508.03, 71-4603, 71-4604, 71-4606, 71-4608 to 71-4611, 71-4613, 71-4614, 71-4616 to 71-4620, 71-6201, and 71-6203, Reissue Revised Statutes of Nebraska, 1943, and sections 71-101, 71-147, 71-148, 71-168.01, 71-1,142, 71-602, 71-604.05, 71-612, 71-648, 71-2017.01, 71-4604.01, 71-5668, 71-7101, 81-642 to 81-645, 81-647 to 81-649, 81-655, 81-656, 81-659, and 81-660, Revised Statutes Supplement, 1992, and Laws 1990, LB 551, section 32, as amended by Laws 1992, LB 1019, section 127, and also sections 71-1713, 71-1718, 71-1719, 71-1720, and 71-6230, Reissue Revised Statutes of Nebraska, 1943, and sections 71-525 and 81-649.01, Revised Statutes Supplement, 1992, are repealed.

Sec. 129. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.