

LEGISLATIVE BILL 406

Approved by the Governor June 1, 1995

Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Day, 19; Dierks, 40; Jensen, 20; Matzke, 47; Pirsch, 10; Schimek, 27

AN ACT relating to public health and welfare; to amend sections 2-3910, 21-2202, 28-411, 28-414, 28-415, 33-150, 71-1,285, 71-1,286, 71-1,287 to 71-1,292, 71-1,294, 71-3502, 71-3505, 71-3508, 71-3515.01, 71-3515.02, 71-5133, 71-6001 to 71-6007, 71-6310, 71-6310.01, 71-6311, 71-6314, 71-6317, 81-642, 81-646, 81-2266, 81-2269, and 83-211.02, Reissue Revised Statutes of Nebraska, and sections 21-2209, 21-2216, 28-405, 71-101, 71-102, 71-107, 71-110, 71-112, 71-113, 71-114, 71-131, 71-162, 71-1,206.18, 71-1,293, 71-1,314, 71-612, 71-617.15, 71-627, 71-628, 71-634, 71-2417, 71-3501, 71-3503, 71-3507, 71-5102, 71-5108, 71-5109 to 71-5111, 71-5127, 71-5142, 71-5147, 71-5152, 71-5157, 71-5514.01, 71-6301, 71-6303, 71-6801, 71-7001, 71-7004, 71-7012, 71-7303, and 71-7304, Revised Statutes Supplement, 1994; to change and eliminate provisions relating to surveys of milksheds, professional corporations, schedules of controlled substances, prescriptions and recordkeeping requirements for and labeling of controlled substances, psychologists, dietitians and nutritionists, mental health practitioners, vital statistics, medical radiography, emergency medical services, health care facility receiverships, asbestos, clinical laboratories, the cancer registry, nursing facility preadmission screening, and an advisory committee for the visually impaired; to define and redefine terms; to change and provide powers and duties; to change and provide fees and penalties; to change the distribution of and rename funds; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 71-6309.01 and 71-6315, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 2-3910, Reissue Revised Statutes of Nebraska, is amended to read:

2-3910. The Director of Health Agriculture shall make and publish the results of periodic surveys of milksheds to determine the degree of compliance with the sanitary requirements for the production, processing, handling, distribution, sampling, and hauling of milk and milk products as provided in the Nebraska Pasteurized Milk Law. The Director of Health Agriculture shall have the power to adopt and promulgate reasonable rules and regulations in accordance with the procedure defined in the Administrative Procedure Act for the interpretation and enforcement of this section. Such a survey or rating of a milkshed shall follow the procedures prescribed by the United States Department of Health and Human Services in its documents entitled Methods of Making Sanitation Ratings of Milk Supplies, and Procedures Governing the Cooperative State Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers, as such documents exist on January 1, 1990 the operative date of this section, copies of which shall be kept on file in the offices of the Secretary of State, the Director of Health Clerk of the Legislature, and the Director of Agriculture.

Sec. 2. Section 21-2202, Reissue Revised Statutes of Nebraska, is amended to read:

21-2202. As used in For purposes of the Nebraska Professional Corporation Act, unless the context otherwise requires:

(1) Certificate of registration or registration certificate from or by the regulating board means either a document prepared and issued by the regulating board or the electronic accessing of the regulating board's licensing records by the Secretary of State;

(2) Professional corporation means a corporation which is organized under the act for the specific purpose of rendering professional service and which has as its shareholders only individuals who themselves are duly licensed or otherwise legally authorized within this state to render the same professional service as the corporation;

(+) (3) Professional service shall mean means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and

which, except for the services of a real estate broker, prior to the passage of the act and by reason of law could not be performed by a corporation, including, but not limited to, personal services rendered by a certified public accountant, public accountant, dentist, osteopathic physician, physician and surgeon, veterinarian, real estate broker, associate real estate broker, real estate salesperson, or attorney at law. For purposes of the act, those professions pertaining to the diagnosis, care, and treatment of humans shall be considered to be of the same profession; and

~~(2)~~ (4) Regulating board shall mean means a board which is charged with the licensing and regulating of the practice or profession which the professional corporation is organized to render, and

~~(3)~~ Professional corporation shall mean a corporation which is organized under the act for the specific purpose of rendering professional service and which has as its shareholders only individuals who themselves are duly licensed or otherwise legally authorized within this state to render the same professional service as the corporation.

Sec. 3. Section 21-2209, Revised Statutes Supplement, 1994, is amended to read:

21-2209. (1) A professional corporation may provide professional services in another jurisdiction if such corporation complies with all applicable laws of such jurisdiction regulating the rendering of professional services. Notwithstanding any other provision of the Nebraska Professional Corporation Act, no shareholder, director, officer, employee, or agent of a professional corporation shall be required to be licensed to render professional services in this state or to reside in this state if such shareholder, director, officer, employee, or agent does not render professional services in this state and is licensed in one or more states, territories of the United States, or the District of Columbia to render a professional service described in the professional corporation's articles of incorporation.

(2) A foreign professional corporation shall not transact business in this state unless it renders one of the professional services specified in subdivision ~~(1)~~ (3) of section 21-2202 and complies with the provisions of the act, including, without limitation, registration with the appropriate regulating board in this state. A foreign professional corporation shall not transact business in this state if the laws of the jurisdiction under which such foreign professional corporation is incorporated do not allow for a professional corporation incorporated under the laws of this state to transact business in such jurisdiction.

(3)(a) A foreign professional corporation shall apply for a certificate of authority in the same manner as a foreign business corporation pursuant to sections 21-20,109 to 21-20,111.

(b) Except as otherwise provided in the Nebraska Professional Corporation Act, foreign professional corporations shall enjoy all the powers, benefits, and privileges and shall be subject to all the duties, restrictions, and liabilities of a foreign business corporation under sections 21-301 to 21-325 and the Nebraska Business Corporation Act.

(c) A foreign professional corporation shall not be required as a condition to obtaining a certificate of authority to have all of its shareholders, directors, and officers licensed to render professional services in this state if all of its shareholders, directors, and officers, except the secretary and assistant secretary, are licensed in one or more states or territories of the United States or the District of Columbia to render a professional service described in its articles of incorporation and any shareholder, director, officer, employee, or agent who renders professional services within this state on behalf of the foreign professional corporation is licensed to render professional services in this state.

(d) A foreign professional corporation shall not be required to obtain a certificate of authority to transact business in this state unless it maintains or intends to maintain an office in this state for the conduct of business or professional practice.

(4) For purposes of this section, foreign professional corporation shall mean a corporation which is organized under the law of any other state or territory of the United States or the District of Columbia for the specific purpose of rendering professional services and which has as its shareholders only individuals who are duly licensed or otherwise legally authorized to render the same professional services as the corporation.

Sec. 4. Section 21-2216, Revised Statutes Supplement, 1994, is amended to read:

21-2216. (1) No corporation shall open, operate, or maintain an establishment or do business for any purposes set forth in the Nebraska Professional Corporation Act without ~~(1)~~ (a) filing with the Secretary of

State a certificate of registration from the regulating board of the particular profession for which the professional corporation is organized to do business, which certificate shall set forth the name and residence addresses of all shareholders as of the last day of the month preceding such filing, and ~~(2)~~ (b) certifying that all shareholders, directors, and officers, except the secretary and the assistant secretary, are duly licensed to render the same professional services as those for which the corporation was organized. Application for a certificate of registration shall be made by the professional corporation to the regulating board in writing and shall contain the names of all officers, directors, shareholders, and professional employees of the professional corporation, the street address at which the applicant proposes to perform professional services, and such other information as may be required by the regulating board.

If it appears to the regulating board that each shareholder, officer, director, and professional employee of the applicant, except the secretary and the assistant secretary, is licensed to practice the profession of the applicant and that each shareholder, officer, director, or professional employee is not otherwise disqualified from performing the professional services of the applicant, such regulating board shall certify, in duplicate upon a form bearing its date of issuance and prescribed by such regulating board, that such proposed or existing professional corporation complies with the provisions of the act and of the applicable rules and regulations of such regulating board. Each applicant for such registration certificate shall pay such regulating board a fee of twenty-five dollars for the issuance of such duplicate certificate.

One copy of such certificate shall be prominently exposed to public view upon the premises of the principal place of business of each professional corporation organized under the act, and one copy shall be filed by the professional corporation with the Secretary of State who shall charge a fee of twenty-five dollars for filing the same. The certificate from the regulating board shall be filed in the office of the Secretary of State together with the articles of incorporation. A registration certificate bearing an issuance date more than twelve months old shall not be eligible for filing with the Secretary of State.

(2) When licensing records of regulating boards are electronically accessible, the Secretary of State shall access the records. The access shall be made in lieu of the certificate of registration or registration certificate being prepared and issued by the regulating board. The professional corporation shall file with the Secretary of State an application setting forth the name and residence addresses of all officers, directors, shareholders, and professional employees as of the last day of the month preceding the date of the application and shall file with the Secretary of State an annual update thereafter. Each application shall be accompanied by a licensure verification fee of fifty dollars. The Secretary of State shall verify that all of the directors, officers, shareholders, and professional employees listed on the application, except for the secretary and assistant secretary, are duly licensed or otherwise legally authorized to render the same professional service or an ancillary service as those for which the professional corporation was organized. Verification shall be done by electronically accessing the regulating board's licensing records. If any director, officer, shareholder, or professional employee is not licensed or otherwise legally authorized to perform the professional service that the professional corporation was organized to render, the corporation will be suspended. The annual report and tax cannot be filed and paid in the office of the Secretary of State until the corporation attests in writing that the director, officer, shareholder, or professional employee is licensed or otherwise legally authorized to practice, which shall be verified by the Secretary of State, or is no longer a director, officer, shareholder, or professional employee of the corporation. When the annual report and the tax become delinquent, the corporation shall be dissolved for nonpayment of taxes in compliance with section 21-323.

Sec. 5. Section 28-405, Revised Statutes Supplement, 1994, is amended to read:

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

Schedule I

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation: (1) Acetylmethadol; (2) allylprodine; (3) alphacetylmethadol, except levo-alpha-cetylmethadol which is also known as ~~levo-alpha-acetylmethadol~~ levo-alpha-acetylmethadol, levomethadyl

acetate, and LAAM; (4) alphameprodine; (5) alphanmethadol; (6) benzethidine; (7) betacetylmethadol; (8) betameprodine; (9) betamethadol; (10) betaprodine; (11) clonitazene; (12) dextromoramide; (13) difenoxin; (14) diampromide; (15) diethylthiambutene; (16) dimenoxadol; (17) dimepheptanol; (18) dimethylthiambutene; (19) dioxaphetyl butyrate; (20) dipipanone; (21) ethylmethylthiambutene; (22) etonitazene; (23) etoxeridine; (24) furethidine; (25) hydroxypethidine; (26) ketobemidone; (27) levomoramide; (28) levophenacylmorphan; (29) morpheridine; (30) noracymethadol; (31) norlevorphanol; (32) normethadone; (33) norpipanone; (34) phenadoxone; (35) phenampromide; (36) phenomorphan; (37) phenoperidine; (38) piritramide; (39) proheptazine; (40) properidine; (41) propiram; (42) racemoramide; (43) triperidine; (44) alpha-methylfentanyl, N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl) propionanilide, 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine; (45) tilidine; (46) 3-Methylfentanyl, N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide, its optical and geometric isomers, salts, and salts of isomers; (47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its optical isomers, salts, and salts of isomers; (48) 1-(2-phenylethyl)-4-phenyl-4-acetyloxy piperidine (PEPAP), its optical isomers, salts, and salts of isomers; (49) N-(1-(1-methyl-2-phenyl)ethyl-4-piperidyl)-N-phenylacetamide (acetyl-alpha-methylfentanyl), its optical isomers, salts, and salts of isomers; (50) N-(1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (alpha-methylthiofentanyl), its optical isomers, salts, and salts of isomers; (51) N-(1-benzyl-4-piperidyl)-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers; (52) N-(1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl)-N-phenylpropanamide (beta-hydroxyfentanyl), its optical isomers, salts, and salts of isomers; (53) N-(3-methyl-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl)-N-phenylpropanamide (beta-hydroxy-3-methylfentanyl), its optical and geometric isomers, salts, and salts of isomers; (54) N-(3-methyl-1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (3-methylthiofentanyl), its optical and geometric isomers, salts, and salts of isomers; (55) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl), its optical isomers, salts, and salts of isomers; (56) N-(1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (thiofentanyl), its optical isomers, salts, and salts of isomers; and (57) N-(1-(2-phenylethyl)-4-piperidyl)-N-(4-fluorophenyl)-propanamide (para-fluorofentanyl), its optical isomers, salts, and salts of isomers.

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

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and, for purposes of this subdivision only, isomer shall include the optical, position, and geometric isomers: (1) Bufotenine. Trade and other names shall include, but are not limited to: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; and mappine; (2) diethyltryptamine. Trade and other names shall include, but are not limited to: N, N-diethyltryptamine; and DET; (3) dimethyltryptamine. Trade and other names shall include, but are not limited to: DMT; (4) 4-bromo-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; and 4-bromo-2, 5-DMA; (5) 4-methoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methoxy-a-methyl-phenethylamine; and paramethoxyamphetamine, PMA; (6) 4-methyl-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; DOM; and STP; (7) 5-methoxy-N-N, dimethyltryptamine; (8) ibogaine. Trade and other names shall include, but are not limited to: 7-ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6, 9-methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; and tabernanthe iboga; (9) lysergic acid diethylamide; (10) marijuana; (11) mescaline; (12) peyote.

Peyote shall mean all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant or its seeds or extracts; (13) psilocybin; (14) psilocyn; (15) tetrahydrocannabinols, including, but not limited to, synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the Food and Drug Administration; Delta 6 cis or trans tetrahydrocannabinol and their optical isomers; and Delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers. Since nomenclature of these substances is not internationally standardized, compounds of these structures shall be included regardless of the numerical designation of atomic positions covered; (16) 3,4-methylenedioxy amphetamine; (17) 5-methoxy-3, 4-methylenedioxy amphetamine; (18) 3,4,5-trimethoxy amphetamine; (19) N-ethyl-3-piperidyl benzilate; (20) N-methyl-3-peperidyl benzilate; (21) thiophene analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TCP; and TCP; (22) 2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 2,5-dimethoxy- α -methylphenethylamine; and 2,5-DMA; (23) hashish or concentrated cannabis; (24) Parahexyl. Trade and other names shall include, but are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6, 9-trimethyl-6H-dibenzo(b,d)pyran; and synhexyl; (25) Ethylamine analog of phencyclidine. Trade and other names shall include, but are not limited to: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE; (26) Pyrrolidine analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP; and (27) 3,4-methylenedioxy-methamphetamine (MDMA), its optical, positional, and geometric isomers, salts, and salts of isomers.

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

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

Schedule II

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

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

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

(3) Opium poppy and poppy straw;

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

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

of the opium poppy.

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

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

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

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

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

Schedule III

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

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

limited to: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names for zolazepam shall include, but not be limited to: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-diazepin-7(1H)-one, and flupyrzapone.

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

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

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

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

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

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

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

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

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

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

Schedule IV

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

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, whether

optical, position, or geometric, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

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

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane); and (2) not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

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

Schedule V

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

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

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

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

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

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

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

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

Sec. 6. Section 28-411, Reissue Revised Statutes of Nebraska, is amended to read:

28-411. (1) Every physician, dentist, podiatrist, veterinarian, or other person who is authorized to administer or professionally use controlled substances shall keep a record of such controlled substances received by him or her and a record of all such controlled substances administered or professionally used by him or her otherwise than by prescription.

(2) Manufacturers and wholesalers shall keep records of all controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared and of all controlled substances received and disposed of by them, in accordance with subsection (4) of this section.

(3) Apothecaries shall keep records of all controlled substances received and disposed of by them, in accordance with subsection (4) of this section.

(4) The form of records shall be prescribed by the Department of Health of the State of Nebraska. The record of controlled substances received shall in every case show (a) the date of receipt, (b) the name and address of the person from whom received, (c) the kind and quantity of controlled substances received, (d) the kind and quantity of controlled substances produced or removed from process of manufacture, and (e) the date of such production or removal from process of manufacture. The record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced. The record of all controlled substances sold, administered, dispensed, or otherwise disposed of shall show the date of selling, administering, or dispensing, the name and address of the person to whom or for whose use or the owner and species of

animal for which the controlled substances were sold, administered, or dispensed, and the kind and quantity of controlled substances. Every such record shall be kept for a period of ~~two~~ seven years from the date of the transaction recorded. ~~The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified in this subsection, shall constitute compliance with this section; except that every such record and shall contain a detailed list of controlled substances lost, destroyed, or stolen, if any, the kind and quantity of such controlled substances, and the date of the discovery of such loss, destruction, or theft.~~

Sec. 7. Section 28-414, Reissue Revised Statutes of Nebraska, is amended to read:

28-414. (1)(a) Except as provided in subdivision (1)(b) of this section or when administered directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedule II of section 28-405 may be dispensed without the written prescription of a practitioner, except that in emergency situations as prescribed by the department by rule and regulation, such substance may be dispensed pursuant to a facsimile prescription bearing the word emergency or upon oral prescription reduced promptly to writing in conformity with subdivision (4)(b) of this section and filed by the pharmacist. No prescription for a Schedule II substance may be refilled.

(b)(i) A prescription for a controlled substance included in Schedule II of section 28-405 may be transmitted by the practitioner to a pharmacy via facsimile equipment, if the original written, signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance except as provided in subdivision (1)(b)(ii) or (1)(b)(iii) of this section or subdivision (1)(b)(i) of this section.

(ii) A prescription written for a controlled substance included in Schedule II of section 28-405 to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner to the home infusion pharmacy by facsimile. The facsimile shall serve as the original written prescription for purposes of subdivision (1)(b)(ii) of this section and it shall be maintained in accordance with the provisions of subdivision (4)(a) of this section.

(iii) A prescription written for a controlled substance included in Schedule II of section 28-405 for a resident of a long-term care facility may be transmitted by the practitioner to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription for purposes of subdivision (1)(b)(iii) of this section and it shall be maintained in accordance with the provisions of subdivision (4)(a) of this section.

(c) A prescription for a controlled substance listed in Schedule II of section 28-405 written for a patient in a long-term care facility or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist shall record on the prescription whether the patient is terminally ill or a long-term care facility patient. A prescription that is partially filled and does not contain the notation terminally ill or long-term care facility patient shall be deemed to have been filled in violation of the Uniform Controlled Substances Act. For each partial filling, the dispensing pharmacist shall record on the back of the prescription or on another appropriate record, uniformly maintained and readily retrievable, the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Prior to any subsequent partial filling the pharmacist is to determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial fillings shall not exceed the total quantity prescribed. Schedule II prescriptions for patients in a long-term care facility or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed sixty days from the date of issuance unless sooner terminated by the discontinuance of medication.

(2)(a) Except as provided in subdivision (2)(b) of this section or when administered directly by a practitioner, other than a pharmacist, to an ultimate user, no other controlled substance included in Schedule III or IV of section 28-405 which is a prescription drug as determined under the laws of this state or the laws of the United States may be dispensed without a written

or oral prescription. Such prescription may not be filled more than six months after the date of the prescription. Practitioner authorization shall be required to refill any such prescription. Such refills may not occur more than five times within six months after the date of the prescription.

(b) A prescription for a controlled substance included in Schedule III or IV of section 28-405 may be transmitted by the practitioner to a pharmacy via facsimile equipment. The facsimile shall serve as the original written prescription for purposes of this subdivision and it shall be maintained in accordance with the provisions of subdivision (4)(a) of this section.

(3)(a) Except as provided in subdivision (3)(b) of this section or when administered directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedule V of section 28-405 may be dispensed without a written or oral prescription.

(b) A prescription for a controlled substance included in Schedule V of section 28-405 may be transmitted by the practitioner to a pharmacy via facsimile equipment. The facsimile shall serve as the original written prescription for purposes of this subdivision and it shall be maintained in accordance with the provisions of subdivision (4)(a) of this section.

(4)(a) Prescriptions for all Schedule II controlled substances shall be kept in a separate file by the practitioner, shall be maintained for a minimum of two seven years, and shall be available to authorized agents of the Bureau of Examining Boards and the Division of Drug Control for inspection without any requirement for obtaining a search warrant.

(b) All prescriptions for controlled substances in Schedule II of section 28-405 shall contain the name and address of the patient and the name and address of the prescribing practitioner, including the registry number under the federal narcotic laws of the prescribing practitioner. The pharmacist or practitioner filling the prescription shall write the date of filling and his or her own signature on the face of the prescription. If the prescription is for an animal, it shall state the name and address of the owner of the animal and the species of the animal.

(c) Prescriptions for all controlled substances in Schedules III, IV, and V of section 28-405 shall be filed separately from other prescriptions in a single file by the practitioner and shall be maintained for a minimum of two seven years. The practitioner shall be required to make all prescription files readily available to authorized agents of the Bureau of Examining Boards and the Division of Drug Control for inspection without any requirement for obtaining a search warrant.

(d) All prescriptions for controlled substances in Schedules III, IV, and V of section 28-405 shall contain the name and address of the patient and the name and address of the prescribing practitioner, including the registry number of the prescribing practitioner under the federal narcotics laws. If the prescription is for an animal, it shall state the owner's name and address and species of the animal.

(e) The owner of any stock of controlled substances in Schedules I and II of section 28-405, upon discontinuance of the dealing in such substances, may sell such substances to a manufacturer, wholesaler, or apothecary but only on an official order form as required by section 28-413.

(f) An apothecary, only upon an official written order, may sell to a physician, dentist, pediatricist, or veterinarian, in quantities not exceeding one ounce at any time; aqueous or oleaginous solutions of which the content of controlled substances in Schedules I, II, and III of section 28-405 does not exceed a proportion greater than twenty percent of the complete solution to be used for medical purposes.

(g) (f) No pharmacist or dispensing practitioner shall dispense any controlled substance contained in Schedule II of section 28-405 without affixing to the container in which the substance is dispensed a label bearing the name and address of the pharmacy or dispensing practitioner, the name of the patient, the date compounded, the consecutive number of the prescription under which it is recorded in the practitioner's prescription files, the name of the physician, dentist, veterinarian, or other prescribing practitioner who prescribes it, and the directions for the use of the drug. If indicated by the prescribing practitioner, the label shall bear the name of the substance. Unless the prescribing practitioner writes do not label or words of similar import on the prescription or so designates in an oral or facsimile transmission of the prescription, all prescriptions for a controlled substance contained in Schedule II of section 28-405 shall bear upon the label the name of the substance in the container.

(h) (g) No pharmacist or dispensing practitioner shall dispense any controlled substance contained in Schedules III, IV, and V of section 28-405 without affixing to the container in which the substance is dispensed a label

bearing the name and address of the pharmacy or dispensing practitioner, the name of the patient, the date of initial filling, the consecutive number of the prescription under which it is recorded in the practitioner's prescription files, the name of the physician, dentist, veterinarian, or other prescribing practitioner who prescribes it, and the directions for the use of the drug. If indicated by the prescribing practitioner, the label shall bear the name of the substance. Unless the prescribing practitioner writes do not label or words of similar import on the prescription or so designates in an oral or facsimile transmission of the prescription, all prescriptions for a controlled substance contained in Schedules III, IV, and V of section 28-405 shall bear upon the label the name of the substance in the container.

Sec. 8. Section 28-415, Reissue Revised Statutes of Nebraska, is amended to read:

28-415. (1) Whenever a manufacturer sells or dispenses a narcotic drug and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him or her, he or she shall securely affix to each package in which the drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this article, shall alter, deface, or remove any label so affixed.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, podiatrist, or veterinarian, he or she shall affix to the container in which such drug is sold or dispensed a label in accordance with the requirements stated in subdivisions (4)(f) and (g) and (h) of section 28-414. No person shall alter, deface, or remove any label so affixed.

Sec. 9. Section 33-150, Reissue Revised Statutes of Nebraska, is amended to read:

33-150. The State Treasurer shall credit to the General Fund fifteen percent of all fees remitted to the state treasury by the state boards of examiners in medicine and surgery, chiropractic, respiratory care, dentistry, including fees from dental hygienists, dietetics and nutrition hygiene, medical nutrition therapy, athletic training, massage therapy, optometry, pharmacy, funeral directing and embalming, including fees received from funeral establishments and branch establishments, as defined in section 71-1301, as well as funeral directors and embalmers, podiatry, veterinary medicine, and mental health practice, the Board of Occupational Therapy Practice, the Board of Cosmetology Examiners, the Board of Barber Examiners, the Board of Nursing, the State Real Estate Commission, the Board of Examiners for Professional Engineers and Architects, the State Athletic Commissioner, the Nebraska Oil and Gas Conservation Commission pursuant to sections 57-906 and 57-911, and any other state board, bureau, division, fund, or commission not mentioned above, if and when fifteen percent of all such fees remitted is appropriated or reappropriated to the General Fund by the Legislature for the uses and purposes of the General Fund during any biennium.

Nothing in this section shall be construed to apply to the fees inuring to the Nebraska Brand Inspection and Theft Prevention Fund and the Licensee Assistance Cash Fund and funds of the State Racing Commission.

Sec. 10. Section 71-101, Revised Statutes Supplement, 1994, is amended to read:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1301 to ~~71-1306~~, ~~71-1326~~ to 71-1354, and 71-2801 to 71-2822 and section 27 of this act shall be known and may be cited as the Uniform Licensing Law.

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

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

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

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

(4) Department shall mean the Department of Health;

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

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

professional tasks and use a particular title;

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

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

Sec. 11. Section 71-102, Revised Statutes Supplement, 1994, is amended to read:

71-102. (1) No person shall engage in the practice of medicine and surgery, athletic training, respiratory care, osteopathic medicine, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, massage therapy, physical therapy, audiology, speech-language pathology, embalming, funeral directing, psychology, veterinary medicine and surgery, medical nutrition therapy, or mental health practice unless such person has obtained a license from the Department of Health for that purpose.

(2) No person shall hold himself or herself out as a certified social worker or certified master social worker unless such person has obtained a certificate from the department for that purpose.

(3) No person shall hold himself or herself out as a certified professional counselor unless such person has obtained a certificate from the department for such purpose.

(4) No person shall hold himself or herself out as a certified marriage and family therapist unless such person has obtained a certificate from the department for such purpose.

(5) ~~No person shall hold himself or herself out as a certified nutritionist unless such person has obtained a certificate from the department for such purpose.~~

Sec. 12. Section 71-107, Revised Statutes Supplement, 1994, is amended to read:

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

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

Sec. 13. Section 71-110, Revised Statutes Supplement, 1994, is amended to read:

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

- (a) January, pharmacy and psychology;
- (b) February, funeral directing and embalming;
- (c) March, dentistry and dental hygiene;
- (d) April, podiatry and veterinary medicine and surgery;
- (e) May, athletic training;
- (f) June, respiratory care;

(g) August, chiropractic and optometry;

(h) September, dietetics and nutrition medical nutrition therapy, mental health practice including any associated certification, and osteopathic medicine;

(i) October, medicine and surgery;

(j) November, massage therapy and physical therapy; and

(k) December, audiology and speech-language pathology.

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

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

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

(4) At least thirty days before the expiration of a license, certificate, or registration, the department shall notify each licensee, certificate holder, or registrant by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any licensee, certificate holder, or registrant who fails to notify the department of his or her desire to let his or her license, certificate, or registration lapse or be placed on inactive status upon its expiration or who fails to pay the renewal fee on or before the date of expiration of his or her license, certificate, or registration shall be given a second notice in the same manner as the first notice advising him or her (a) of the failure to pay, (b) that the license, certificate, or registration has expired, (c) that the department will suspend action for thirty days following the date of expiration, (d) that upon the receipt of the renewal fee, together with an additional fee of twenty-five dollars, within that time, no order of revocation will be entered, and (e) that upon the failure to receive the amount then due and twenty-five dollars in addition to the regular renewal fee, the license, certificate, or registration will be revoked in the manner prescribed in section 71-149.

(5) Any licensee, certificate holder, or registrant who fails to renew his or her license, certificate, or registration may be reinstated upon the recommendation of the board of examiners for his or her profession and the payment of the renewal and any additional fees and an additional fee of fifty dollars if an application for reinstatement is made more than thirty days after expiration and not more than one year from the date of revocation.

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

Sec. 14. Section 71-112, Revised Statutes Supplement, 1994, is amended to read:

71-112. The boards of examiners provided in section 71-111 shall be designated as follows: For medicine and surgery and osteopathic medicine and surgery, Examiners in Medicine and Surgery; for athletic training, Examiners in Athletic Training; for respiratory care, Examiners in Respiratory Care Practice; for chiropractic, Examiners in Chiropractic; for dentistry and dental hygiene, Examiners in Dentistry; for optometry, Examiners in Optometry; for massage therapy, Examiners in Massage Therapy; for physical therapy, Examiners in Physical Therapy; for pharmacy, Examiners in Pharmacy; for audiology and speech-language pathology, Examiners in Audiology and Speech-Language Pathology; for dietetic and nutrition services medical nutrition therapy, Examiners in Dietetics and Nutrition Medical Nutrition Therapy; for funeral directing and embalming, Examiners in Funeral Directing and Embalming; for podiatry, Examiners in Podiatry; for psychology, Examiners of Psychologists; for veterinary medicine and surgery, Examiners in Veterinary Medicine; and for mental health practice, Examiners in Mental Health Practice.

Sec. 15. Section 71-113, Revised Statutes Supplement, 1994, is amended to read:

71-113. (1) Each board of examiners shall consist of four members, including one layperson, except that (a) in audiology and speech-language pathology the board shall consist of five members, including one layperson, (b) in dentistry the board shall consist of ten members, including two laypersons, (c) in medicine and surgery the board shall consist of eight members, including two laypersons, (d) in pharmacy the board shall consist of five members, including one layperson, (e) in psychology the board shall consist of six members, including one layperson, (f) in medical nutrition therapy the board shall consist of five members, including two laypersons, and (g) in mental health practice the board shall consist of not more than ten members, including two laypersons.

(2) Membership on the Board of Examiners in Audiology and Speech-Language Pathology shall consist of two members who are audiologists, two members who are speech-language pathologists, and one layperson.

(3) Membership on the Board of Examiners in Athletic Training shall consist of three athletic trainers and one layperson.

(4) Membership on the Board of Examiners in Respiratory Care Practice shall consist of two respiratory care practitioners, one physician, and one layperson.

(5) Two of the six professional members of the Board of Examiners in Medicine and Surgery shall be officials or members of the instructional staff of an accredited medical school in this state.

(6) Two of the eight professional members of the Board of Examiners in Dentistry shall be dentists who are officials or members of the instructional staff of an accredited school or college of dentistry in this state, and two of the members of the board shall be dental hygienists licensed under the Uniform Licensing Law.

(7) Membership on the Board of Examiners in Dietetics and Nutrition Medical Nutrition Therapy shall consist of three certified nutritionists and one layperson two medical nutrition therapists, one physician, and two laypersons.

(8) Membership on the Board of Examiners in Mental Health Practice shall consist of not more than two certified master social workers, not more than two certified professional counselors, not more than two certified marriage and family therapists, and two laypersons. At least one professional member of the board shall be a member of a racial or ethnic minority. When ten or more persons hold licenses as mental health practitioners without holding an associated certificate, not more than two such licensed mental health practitioners shall be added to the board.

Sec. 16. Section 71-114, Revised Statutes Supplement, 1994, is amended to read:

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

(2) A layperson member of a board of examiners shall be of the age of majority and shall have been a resident of the State of Nebraska for at

least five years immediately prior to appointment to the board. Such a layperson member shall be a representative of consumer viewpoints.

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

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

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

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

(7) The members initially appointed to the Board of Examiners in Mental Health Practice to fill the positions designated for certified master social workers shall be certified master social workers serving on the Board of Examiners in Social Work and to fill the positions designated for certified professional counselors shall be certified professional counselors serving on the Board of Examiners in Professional Counseling as such boards existed immediately prior to September 1, 1994.

Sec. 17. Section 71-131, Revised Statutes Supplement, 1994, is amended to read:

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

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

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

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

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

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

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

(3) In social work, the passing criterion for such examination shall be established and may be changed by ~~the Board of Examiners in Social Work~~

until September 1, 1994, and commencing September 1, 1994, by the Board of Examiners in Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all the requirements for certification without examination pursuant to section 71-1,260 until September 1, 1994, and commencing September 1, 1994, pursuant to section 71-1,319 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

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

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

(6) Applicants for licensure in medicine and surgery and osteopathic medicine and surgery shall pass the licensing examination. An applicant who fails to pass any part of the licensing examination within four attempts shall complete one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. All parts of the licensing examination must be successfully completed within seven years. An applicant who fails to successfully complete the licensing examination within seven years shall retake that part of the examination which is more than seven years old.

(7) In diabetic and nutrition services medical nutrition therapy, the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Dietetics and Nutrition Medical Nutrition Therapy by rule and regulation. Such examination shall test for the essential clinical elements of the field of medical nutrition therapy. The board shall base its actions on broad categorical parameters derived from the essential elements of the field of medical nutrition therapy. It shall not endorse nor restrict its assessment to any particular nutritional school of thought in its selection of examinations, passing criterion for such examinations, evaluation of credentials, approval of continuing education hours, application of practice standards, or in any other actions. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification licensure without examination pursuant to section 71-1,291 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

Sec. 18. Section 71-162, Revised Statutes Supplement, 1994, is amended to read:

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

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

(b) Not less than one hundred dollars and not more than six hundred dollars for a license issued on the basis of examination or by reciprocity to practice psychology;

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

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

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

dollars;

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

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

(h) For a ~~certificate as a certified nutritionist license as a licensed medical nutrition therapist~~, not less than fifty dollars and not more than three hundred dollars. The fee for renewal of a ~~certificate as a certified nutritionist license as a licensed medical nutrition therapist~~ shall be not less than twenty dollars and not more than five hundred dollars. The fee for ~~certification licensure~~ by reciprocity shall be not less than fifty dollars and not more than three hundred dollars;

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

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

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

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

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

Sec. 19. Section 71-1,206.18, Revised Statutes Supplement, 1994, is amended to read:

71-1,206.18. Except as provided in this section, a person licensed as a psychologist under the law in effect immediately prior to September 1, 1994, but not certified in clinical psychology:

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

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

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

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

Psychologists practicing with special licenses may continue to use the title licensed psychologist but shall disclose supervisory relationships to clients or patients for whom supervision is required and to third-party payors when relevant. Psychologists who wish to continue supervisory relationships existing immediately prior to September 1, 1994, with qualified physicians may do so if a letter as described in this subdivision is received by the board within three months after such date;

(2) May apply for licensure ~~within three months after September 1, 1994 before December 1, 1995~~, by demonstrating that he or she has rendered psychological diagnostic and treatment services as the major element of his or her employment in an educational, correctional, or health care setting for at

least four years after licensure. A psychologist demonstrating such experience shall be deemed to have met equivalent requirements for licensure to those required by section 71-1,206.15 and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law. For purposes of this subdivision:

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

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

(c) Health care settings shall be hospitals, skilled nursing facilities, clinics, and mental health centers licensed by the Department of Health and accredited by the Joint Commission on Hospital Accreditation, by the Commission on Accreditation of Rehabilitation Facilities, or by the Department of Public Institutions, or by a similar or an equivalent accrediting body as determined by the board.

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

(3) May apply for licensure within three months of September 1, 1994, by demonstrating that he or she has been employed as full-time faculty in a program of graduate education in psychology approved by the American Psychological Association for a period not less than five years after licensure. A person demonstrating such employment shall be deemed to have met equivalent requirements for licensure under section 71-1,206.15 and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law.

A person licensed but not certified to practice clinical psychology under the law in effect immediately prior to September 1, 1994, who has failed the examination for clinical certification shall not be eligible to apply under subdivisions (2) and (3) of this section. The board may deny an application under such subdivisions if the applicant has had any action taken against him or her for violations of the laws licensing psychologists by the board or the boards of other jurisdictions. Such person shall be granted a special license under subdivision (1) of this section.

Sec. 20. Section 71-1,285, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,285. (1) The Legislature finds that:

(a) The unregulated practice of dietetic and nutrition services medical nutrition therapy can clearly harm or endanger the health, safety, and welfare of the public;

(b) The public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by a less cost-effective means than state regulation of the practice of dietetic and nutrition services medical nutrition therapy. The Legislature also finds that dietitians and nutritionists medical nutrition therapists must exercise independent judgment and that professional education, training, and experience are required to make such judgment.

(2) The Legislature further finds that the practice of dietetic and nutrition services medical nutrition therapy in the State of Nebraska is not sufficiently regulated for the protection of the health, safety, and welfare of the public. It declares that this is a matter of statewide concern and it shall be the policy of the State of Nebraska to promote high standards of professional performance by those persons representing themselves as certified nutritionists licensed medical nutrition therapists.

Sec. 21. Section 71-1,286, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,286. As used in sections 71-1,285 to 71-1,294 and section 27 of this act, unless the context otherwise requires:

(1) Assessment means the process of evaluating the nutritional status of patients. The assessment includes review and analysis of medical and diet histories, biochemical lab values, and anthropometric measurements to determine nutritional status and appropriate nutritional treatment;

(2) Board means the Board of Examiners in Medical Nutrition Therapy;

(3) Consultation means conferring with a physician regarding the activities of the licensed medical nutrition therapist;

(4) General nutrition services includes, but is not limited to:

(a) Identifying the nutritional needs of individuals and groups in

relation to normal nutritional requirements; and

(b) Planning, implementing, and evaluating nutrition education programs for individuals and groups in the selection of food to meet normal nutritional needs throughout the life cycle;

(5) Licensed medical nutrition therapist means a person who is licensed to practice medical nutrition therapy pursuant to the Uniform Licensing Law and who holds a current license issued by the department pursuant to section 71-1,290;

(6) Medical nutrition therapy means the assessment of the nutritional status of patients. It involves the assessment of patient nutritional status followed by treatment, ranging from diet modification to specialized nutrition support, such as determining nutrient needs for enteral and parenteral nutrition, and monitoring to evaluate patient response to such treatment; and

(7) Patient means a person with a disease, illness, injury, or medical condition for which nutritional interventions are an essential component of standard care.

(1) Board shall mean the Board of Examiners in Dietetics and Nutrition;

(2) Certified nutritionist shall mean a person who is certified to practice dietetic and nutrition services pursuant to the Uniform Licensing Law and who holds a current certificate issued by the department pursuant to section 71-1,290; and

(3) Dietetic and nutrition services shall mean the offering or rendering of nutritional services to individuals or groups and shall include, but not be limited to-

(a) Assessment of nutritional requirements of individuals and groups using anthropometric, biochemical, clinical, dietary, and demographic data for clinical, research, and program planning purposes;

(b) Development, implementation, and evaluation of nutritional care plans for individuals and groups which establish priorities, goals, and objectives for meeting nutritional needs consistent with scientific knowledge and procedures; and

(c) Provision of nutritional counseling and education as components of preventative, curative, and restorative health care throughout the life cycle.

Sec. 22. Section 71-1,287, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,287. After September 1, 1989 1996, no person shall represent himself or herself as a certified nutritionist practice medical nutrition therapy unless he or she is certified licensed for such purpose pursuant to the Uniform Licensing Law. The practice of medical nutrition therapy shall not include:

(1) Any person licensed or certified in this state pursuant to Chapter 71 and engaging in such profession or occupation for which he or she is licensed or certified;

(2) Any student engaged in an academic program under the supervision of a licensed medical nutrition therapist as part of a major course of study in human nutrition, food and nutrition, or dietetics, or an equivalent major course of study approved by the board, and who is designated with a title which clearly indicates the person's status as a student or trainee;

(3) Persons practicing medical nutrition therapy who serve in the Armed Forces or the Public Health Service, or are employed by the United States Department of Veterans Affairs, if their practice is limited to that service or employment;

(4) Persons practicing medical nutrition therapy who are licensed in another state, United States possession, or country, or have received at least a baccalaureate degree, and are in this state for the purpose of:

(a) Consultation if the practice in this state is limited to consultation; or

(b) Conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or postgraduate education which is sponsored by a dietetic education program or a major course of study in human nutrition, food and nutrition, or dietetics, or an equivalent major course of study approved by the board;

(5) Persons performing general nutrition services incidental to the practice of the profession insofar as it does not exceed the scope of their education and training;

(6) Persons who market or distribute food, food materials, or dietary supplements, including persons employed in health food stores, or persons engaged in the advising of the use of those products, or the preparation of those products, or the counseling of individuals or groups in

the selection of products to meet general nutrition needs;

(7) Persons conducting classes or disseminating information related to general nutrition services;

(8) Persons who care for the sick in accordance with the tenets and practices of any bona fide church or religious denomination;

(9) Persons who provide information and instructions regarding food intake or exercise as a part of a weight control program; and

(10) Persons with advanced postgraduate degrees involved in academic teaching or research.

Sec. 23. Section 71-1,288, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,288. The Nutritionists Medical Nutrition Therapy Fund is hereby created. All money in the fund shall be used exclusively by the Bureau of Examining Boards to carry out the statutory and regulatory duties pertaining to the practice of dietetic and nutrition services medical nutrition therapy. The State Treasurer shall credit to the Nutritionists Fund, on and after July 9, 1988, all certification fund all licensure and renewal fees for the practice of dietetic and nutrition services medical nutrition therapy remitted to the state treasury by the department pursuant to section 71-162, except such amounts distributed pursuant to sections 33-150 and 71-6228. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269 the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any money in the Nutritionists Fund on the operative date of this section shall be transferred to the Medical Nutrition Therapy Fund.

Sec. 24. Section 71-1,289, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,289. A person shall be qualified to be a certified nutritionist licensed medical nutrition therapist if such person furnishes evidence that he or she:

(1) Has met the requirements for and is a registered dietitian by the American Dietetic Association or an equivalent entity recognized by the board;

(2)(a) Has satisfactorily passed an examination approved by the board;

(b) Has received a baccalaureate degree from an accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the board; and

(c) Has satisfactorily completed a program of supervised clinical experience approved by the department. Such clinical experience shall consist of not less than nine hundred hours of a planned continuous experience in human nutrition, food and nutrition, or dietetics under the supervision of an individual meeting the qualifications of this section; or

(3)(a) Has satisfactorily passed an examination approved by the board; and

(b)(i) Has received a master's or doctorate degree from an accredited college or university in human nutrition, nutrition education, food and nutrition, or public health nutrition or in an equivalent major course of study approved by the board; or

(ii) Has received a master's or doctorate degree from an accredited college or university which includes a major course of study in clinical nutrition. Such course of study shall consist of not less than a combined two hundred hours of biochemistry and physiology and not less than seventy-five hours in human nutrition.

For purposes of this section, accredited college or university means an institution currently listed with the United States Secretary of Education as accredited. Applicants who have obtained their education outside of the United States and its territories shall have their academic degrees validated as equivalent to a baccalaureate or master's degree conferred by a United States regionally accredited college or university.

The practice of medical nutrition therapy shall be performed under the consultation of a physician licensed pursuant to section 71-1,104 or sections 71-1,137 to 71-1,141.

(i)(a) Has received a baccalaureate or postbaccalaureate degree from a regionally accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, or food systems management or an equivalent major course of study approved by the department;

(b) Has satisfactorily completed a program of supervised clinical experience approved by the department. Such clinical experience shall consist of not less than nine hundred hours of a planned continuous experience in dietetic and nutrition services under the supervision of an individual meeting

the qualifications of a certified nutritionist, and

(e) Except as provided in section 71-1,291, has satisfactorily passed the examination approved by the board; or

(2) Has received a master's or doctorate degree from a regionally accredited college or university in human nutrition; nutrition education; foods and nutrition; or public health nutrition or in an equivalent major course of study approved by the department.

Sec. 25. Section 71-1,290, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,290. The department shall issue a certificate license, signed by the Director of Health, to each person who is qualified to be a certified nutritionist licensed medical nutrition therapist.

Sec. 26. Section 71-1,291, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,291. Upon payment of the fee provided in section 71-162 and the provision of evidence to the board of his or her professional education, training, experience, and qualifications to practice medical nutrition therapy, a license dietetic and nutrition services; a certificate to practice as a certified nutritionist medical nutrition therapist shall be issued without examination to any applicant who (1) applies to the department for a certificate license by September 1, 1989 1996, and (2)(a) satisfies the requirements established in of subdivision (1) of section 71-1,289, (b) satisfies the requirements of subdivisions (2)(b) and (2)(c) of section 71-1,289, (c) satisfies the requirements of subdivision (2)(b) of section 71-1,289 and has been practicing medical nutrition therapy with the general public for at least five years, or (d) satisfies the requirements of subdivision (3)(b) of section 71-1,289.

Any person who is a certified nutritionist on the operative date of this section who applies to the department for a license on or before September 1, 1996, shall be issued a license to practice as a medical nutrition therapist without examination upon payment of the fee provided in section 71-162.

Sec. 27. Pursuant to section 71-139, the board shall grant a license to any applicant who presents proof of current licensure as a medical nutrition therapist or licensure by some other title in another state which has licensure requirements considered by the board to be at least as stringent as the requirements for licensure prescribed by section 71-1,289.

Sec. 28. Section 71-1,292, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,292. (1) Except as otherwise provided in section 71-1,294, each certified nutritionist licensed medical nutrition therapist shall, in the period since his or her certificate license was issued or last renewed, complete at least thirty hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars appropriate for medical nutrition therapy. The board and the department shall determine the manner in which attendance at all approved courses, clinics, forums, lectures, training programs, or seminars will be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2) Each certified nutritionist licensed medical nutrition therapist shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements for renewal in accordance with section 71-110.

Sec. 29. Section 71-1,293, Revised Statutes Supplement, 1994, is amended to read:

71-1,293. (1) Nothing in sections 71-1,285 to 71-1,294 and section 27 of this act shall be construed to permit a certified nutritionist licensed medical nutrition therapist to practice any other profession regulated under the Nebraska Cosmetology Act, the Occupational Therapy Practice Act, or Chapter 71, article 1, 37, or 47.

(2) Any person who represents himself or herself as a certified nutritionist licensed medical nutrition therapist without first being certified licensed pursuant to the Uniform Licensing Law shall be guilty of a Class IV misdemeanor.

Sec. 30. Section 71-1,294, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,294. (1) Notwithstanding any other provision in the Uniform Licensing Law, the initial certificate medical nutrition therapist's license shall be valid for one year and shall expire on until September 1, 1990 1997. Commencing on September 1, 1990, a certificate shall be renewed on September 1 of each even-numbered year. Commencing on September 1, 1997, a medical nutrition therapist's license shall be renewed on September 1 of each odd-numbered year. The department, on the recommendation of the board, shall

set the initial certification license fee and the biennial certification license renewal fee for certified nutritionists medical nutrition therapists pursuant to section 71-162.

(2) The department, on the recommendation of the board, shall determine the continuing education requirements for a certified nutritionist licensed medical nutrition therapist for the period September 1, 1989 1996, to September 1, 1990 1997.

Sec. 31. Section 71-1,314, Revised Statutes Supplement, 1994, is amended to read:

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

(a) Has received a master's degree, ~~the that consists of~~ course work and training leading to which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program. Practicums or internships completed after September 1, 1995, must include which required a minimum of three hundred clock hours of direct client contact under the supervision of a qualified physician, a licensed psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before such date or of a qualified physician, a licensed psychologist, or a licensed mental health practitioner; for any hours completed after such date, from a regionally accredited institution or an institution the mental health program of which is accredited by a nationally recognized accreditation agency;

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

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

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

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

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

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

Sec. 32. Section 71-612, Revised Statutes Supplement, 1994, is amended to read:

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, annulment, 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 (a) nine dollars until July 1, 1999, and (b) seven dollars on and after July 1, 1999, 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~~ the 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 ~~which~~ 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. 33. Section 71-617.15, Revised Statutes Supplement, 1994, is amended to read:

71-617.15. The Department of Health shall charge and collect a fee of seven (1) nine dollars until July 1, 1999, and (2) seven dollars on and after July 1, 1999, for each delayed birth certificate application when submitted. Upon request and payment of the fee required by section 71-612, a certified copy of such a certificate shall be furnished by the Director of

Health through the Bureau of Vital Statistics. All such fees shall be remitted to the State Treasurer for credit to the Department of Health Cash Fund as provided in section 71-612. The department shall charge and collect an additional fee of one dollar for each delayed birth certificate. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the General Fund.

Sec. 34. Section 71-627, Revised Statutes Supplement, 1994, is amended to read:

71-627. The certificate of birth of adopted children shall be filed as other certificates of birth. There shall be a fee of seven (1) nine dollars until July 1, 1999, and (2) seven dollars on and after July 1, 1999, charged for each certificate filed. All such fees shall be remitted to the State Treasurer for credit to the Department of Health Cash Fund as provided in section 71-612. Upon request and the payment of the fee prescribed by section 71-612, for the same, a certified copy of such a certificate may be furnished by the Director of Health through the Bureau of Vital Statistics. The department shall charge and collect an additional fee of one dollar for each certificate furnished. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the General Fund.

Sec. 35. Section 71-628, Revised Statutes Supplement, 1994, is amended to read:

71-628. In case of the legitimation of any child born in Nebraska by the subsequent marriage of such child's parents as provided in section 43-1406, the Bureau of Vital Statistics, upon the receipt of a certified copy of the marriage certificate of the parents and a statement of the parents acknowledging paternity, shall prepare a new certificate of birth in the new name of the child so legitimated, in substantially the same form as that used for other live births, and shall charge a filing fee of seven (1) nine dollars until July 1, 1999, and (2) seven dollars on and after July 1, 1999. The department shall charge and collect an additional fee of one dollar for each new certificate of birth prepared. Such The fees collected shall be remitted to the State Treasurer for credit to the General Fund.

Sec. 36. Section 71-634, Revised Statutes Supplement, 1994, is amended to read:

71-634. The Department of Health shall charge and collect a fee of seven (1) nine dollars until July 1, 1999, and (2) seven dollars on and after July 1, 1999, for each proceeding under sections 71-630 and 71-635 to 71-644. The department shall collect the fee prescribed by section 71-612 for a certified copy of the amended record. All fees so collected shall be remitted to the State Treasurer for credit to the Department of Health Cash Fund as provided in section 71-612.

Sec. 37. It is the intent of the Legislature that the temporary two-dollar increase prescribed in subdivision (1)(a) of section 71-612, subdivision (1) of section 71-617.15, subdivision (1) of section 71-627, subdivision (1) of section 71-628, and subdivision (1) of section 71-634 shall be used to fund the acquisition of an imaging system for the records of the Bureau of Vital Statistics of the Department of Health.

Sec. 38. Section 71-2417, Revised Statutes Supplement, 1994, is amended to read:

71-2417. Any emergency box containing a controlled substance which is maintained at an institution shall be exempt from the provisions of subdivisions (4)(f) and (g) and (h) of section 28-414.

Sec. 39. (1) On and after January 1, 1996, a person employed exclusively in the office or clinic of a licensed podiatrist shall not perform any of the functions described in subsection (2) of section 71-3515.01 as a part of such employment unless the person is (a) licensed as a limited radiographer under the Radiation Control Act or (b) certified as provided in this section.

(2) The Board of Examiners in Podiatry may certify a person to perform medical radiography on the anatomical regions of the ankle and foot if such person (a) has completed a fifteen-hour course of instruction, approved by the board, on radiation hygiene and podiatric radiological practices, including radiation health and safety, lower extremity anatomy, physics, concepts, physiology, techniques, positioning, equipment maintenance, and minimization of radiation exposure, and (b) passed a competency examination administered by the board.

Sec. 40. Section 71-3501, Revised Statutes Supplement, 1994, is amended to read:

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 qualifications of persons practicing medical radiography;

(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. 41. Section 71-3502, Reissue Revised Statutes of Nebraska, is amended to read:

71-3502. It is the purpose of the Radiation Control Act to effectuate the policies set forth in section 71-3501 by providing for:

(1) A program of effective regulation of sources of radiation for the protection of occupational and public health and safety and the environment;

(2) A program to promote an orderly regulatory pattern within the state, among the states, and between the federal government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of radiation to the end that duplication of regulation may be minimized;

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to sources of radiation;

(4) A program to permit maximum utilization of sources of radiation consistent with the health and safety of the public; and

(5) A program which establishes requirements and standards for appropriate education, training, written testing, and practical and testing of persons operating an X-ray system practicing medical radiography.

Sec. 42. Section 71-3503, Revised Statutes Supplement, 1994, is amended to read:

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

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

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

(b) Nonionizing radiation shall mean means (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 means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material shall include, but not be includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment shall mean means 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 means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or

capable of emitting radiation or radioactive material;

(5) Undesirable radiation shall mean means 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 means any individual, corporation, partnership, limited liability company, 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;

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

(8) Department shall mean means the Department of Health;

(9) Coordinator shall mean means the Director of Health;

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

(11) Electronic product shall mean means 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 means:

(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;

(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; or

(d) A license issued to a medical radiographer or limited radiographer;

(13) Byproduct material shall mean means:

(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; 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 do not constitute byproduct material;

(14) Source material shall mean means:

(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 does not include special nuclear material;

(15) Special nuclear material shall mean means:

(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 does not include source material; or

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

(16) Users of sources of radiation shall mean means:

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

(18) Closure shall mean means 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 means 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 postoperational care;

(20) Disposal shall mean means 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 means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(22) High-level radioactive waste shall mean means:

(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 means 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 means 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 means 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 means any processing of ore, including underground solution extraction of unmined unmined 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 means 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 includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(28) Transuranic waste shall mean means 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 means 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 means 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 are considered integral parts of the system;

(31) Limited radiographer means a person licensed to practice medical radiography pursuant to subsection (2) of section 71-3515.01. Limited radiographer does not include a person certified under section 39 of this act;

(32) Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 71-3515.01; and

(33) Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects the radiation dose to patients.

Sec. 43. Section 71-3505, Reissue Revised Statutes of Nebraska, is amended to read:

71-3505. Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The department shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section 71-3507 or 71-3509 and (b) for registration or licensure of (i) any other source of radiation, (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, and (iii) persons providing services to reduce the effects of sources of radiation, and (iv) persons practicing medical radiography, as specified by rule or regulation so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, radiologic technologists, medical radiographers, limited radiographers, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

(2) Inform the council of any such rules and regulations at least thirty days prior to their adoption and consider any recommendations of the council;

(3) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(4) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control of sources of radiation;

(5) Collect and disseminate health education information relating to radiation protection;

(6) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency with respect to matters of protection and safety for the control of undesirable radiation;

(7) Be empowered to inspect radiation sources and their shieldings and surroundings for the determination of any possible undesirable radiation or violations of rules and regulations adopted and promulgated by the department and provide the owner, user, or operator with a report of any known or suspected deficiencies; and

(8) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual annual costs of such activities or thirty-six thousand dollars. The fee collected shall be deposited in credited to the Department of Health Cash Fund and shall be used solely for the purpose of defraying the costs of the emergency response and environmental surveillance conducted by the department. and

(9) Develop a program which establishes policies, requirements, and

standards for appropriate education, training, written testing, and practical testing of persons operating an X-ray system.

Sec. 44. Section 71-3507, Revised Statutes Supplement, 1994, is amended to read:

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 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.

(3) The department shall require 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.

(4) The department shall license persons practicing medical radiography, including medical radiographers and limited radiographers, in order to protect the occupational and public health and safety and the environment. The licenses shall be renewable biennially. For medical radiographers and limited radiographers, the department shall adopt and promulgate rules and regulations establishing examination requirements for licensure, continuing education requirements for renewal of a license, and approval requirements for examinations. For medical radiographers, the department shall adopt and promulgate rules and regulations establishing requirements for education and training and for approval of courses of training. Persons authorized under sections 71-193.15 and 71-193.17 to practice as dental hygienists and dental auxiliaries who meet the requirements of section 71-193.13 shall not be required to be licensed under this section.

(5) ~~(3)~~ The department may exempt certain sources of radiation or kinds of uses or users from 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.

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

(7) ~~(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 act and rules and regulations adopted and promulgated pursuant to 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.

(8) ~~(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.

~~(9)~~ ~~(7)~~ The results of any surveys or inspections of sources of radiation conducted by the department 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.

~~(10)~~ ~~(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.

~~(11)~~ ~~(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 act.

Sec. 45. Section 71-3508, Reissue Revised Statutes of Nebraska, is amended to read:

71-3508. (1) The department shall require each person who possesses or uses a source of radiation to maintain records relating to its receipt, storage, transfer, or disposal and such other records as the department may require subject to such exemptions as may be provided by rules or regulations. These records shall be made available for inspection by or copies shall be submitted to the department on request.

(2) The department shall require each person who possesses or uses a source of radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules and regulations of the department. Copies of these records and those required to be kept by subsection (1) of this section shall be submitted to the department on request. Any person possessing or using a source of radiation shall furnish to each employee for whom personnel monitoring is required a copy of each employee's personal exposure record at any time such employee has received exposure in excess of the amount specified in the rules and regulations of the department and upon termination of employment. A copy of the annual exposure record shall be furnished to the employee upon his or her request as required under rules and regulations adopted under the Radiation Control Act.

(3) The department may adopt and promulgate rules and regulations establishing qualifications pertaining to the education, knowledge of radiation safety procedures, training, experience, utilization, facilities, equipment, and radiation protection program that an individual user of sources of radiation shall possess prior to using any source of radiation or radiation-generating equipment. Individuals who are currently licensed in the State of Nebraska as podiatrists, chiropractors, dentists, physicians and surgeons, osteopathic physicians, and veterinarians or certified as physician assistants shall be exempt from the rules and regulations of the department pertaining to the training requirements qualifications of persons for the use of X-ray radiation-generating equipment operated for diagnostic purposes.

Sec. 46. Section 71-3515.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-3515.01. (1) Any person who operates an X-ray system under the direction of a licensed practitioner, except a certified physician assistant, shall:

(a) Be certified as having completed a course of study in radiologic technology and training approved by the department. The department may base such certification upon the standards developed by the American Registry of Radiologic Technologists. Such standards, if approved by the department, may be in lieu of or in addition to any other certification requirement;

(b) Have completed a twenty-four-month educational program in radiography as approved by the department. The department may base the requirements for such a training program upon the programs developed by the Committee on Allied Health Education and Accreditation of the American Medical Association or any other national professional association or registry approved by the department; or

(c) If not employed solely as an X-ray system operator but whose duties may require operation of an X-ray system on a limited basis, have (i) completed a course of instruction in radiation use and safety consisting of sixteen contact hours of instruction incorporating the course material as provided in rules and regulations of the department pursuant to section 71-3515.02 and (ii) been tested on the course material described in subdivision (c)(i) of this subsection.

The department may also approve courses of instruction developed by associations, educational institutions, health care facilities, or other entities so long as such courses meet the criteria set out in the rules and regulations adopted and promulgated by the department. The rules and regulations shall include procedures for such entities to carry out approved courses of instruction and may include provisions to carry out the required testing. The rules and regulations shall provide that the prescribed instruction be administered by a licensed practitioner or under the direct supervision of an operator who meets the requirements of subdivision (a) or (b) of this subsection. This section shall not prohibit any facility from exceeding the minimum hourly or instruction requirements.

(2) The requirements of subsection (1) of this section shall not apply to a student or trainee who operates an X-ray system while under the direct supervision of a licensed practitioner or under the direct supervision of an operator who meets the requirements of subdivision (i)(a) or (b) of this section. (1) A person licensed as a medical radiographer by the department may practice medical radiography on any part of the human anatomy for interpretation by and under the direction of a licensed practitioner, excluding interpretative fluoroscopic procedures. Such person shall:

(a) Prior to issuance of a license as a medical radiographer, (i) complete an educational program in radiography incorporating the course material as provided in the rules and regulations of the department pursuant to subsection (1) of section 71-3515.02 and (ii) successfully complete an examination approved by the department on the course material. Presentation of proof of registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of this subdivision (a) of this subsection; and

(b) Prior to renewal of licensure as a medical radiographer, have an average of twelve units of continuing education per year as approved by the department. Presentation of proof of current registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of subdivisions (a) and (b) of this subsection.

(2) A person licensed as a limited radiographer by the department may practice medical radiography on limited regions of the human anatomy, using only routine radiographic procedures, for the interpretation by and under the direction of a licensed practitioner, excluding computed tomography, the use of contrast media, and the use of fluoroscopic or mammographic equipment. Such person shall:

(a) Prior to issuance of a license as a limited radiographer, successfully complete an examination approved by the department, as described in subdivision (2)(a) of section 71-3515.02 and at least one of the anatomical regions listed in subdivision (2)(b) of such section. The license issued shall be specific to the anatomical region or regions for which the applicant has passed an approved examination, except that an applicant may be licensed in the anatomical region of Abdomen upon successful passage of the examinations described in subdivisions (2)(a) and (2)(b)(iv) of section 71-3515.02 and upon a finding by the department that continued provision of service for a community would be in jeopardy; and

(b) Prior to renewal of licensure as a limited radiographer, have an

average of twelve units of continuing education per year as approved by the department.

(3) The requirements of this section do not apply to a student while enrolled and participating in an educational program in medical radiography who, as a part of an educational program, applies X-rays to humans while under the supervision of the licensed practitioners or medical radiographers associated with the educational program. Students who have completed at least twelve months of the training course described in subsection (1) of section 71-3515.02 may apply for licensure as a temporary medical radiographer. Temporary medical radiographer licenses shall expire eighteen months after issuance and shall be not be renewed. Persons licensed as temporary medical radiographers shall be permitted to perform the duties of a limited radiographer licensed in all anatomical regions of subdivision (2)(b) of such section and Abdomen.

Sec. 47. Section 71-3515.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-3515.02. (1) The department shall adopt and promulgate rules and regulations which delineate the course of instruction for educational programs in radiation use and safety for operators of X-ray systems. Such courses shall include, but not be limited to, fundamentals of radiation, radiation safety, radiation detection instrumentation, operation and control of X-ray equipment, radiation protection, and federal and state regulations. The educational program for medical radiographers shall consist of twenty-four months of instruction in radiography approved by the department which includes, but is not limited to, radiographic procedures, imaging equipment, image production and evaluation, film processing, radiation physics, radiation protection, radiation biology, radiographic pathology, and quality assurance activities. The department shall recognize equivalent courses of instruction, including continuing education, successfully completed by individuals who are credentialed by applying for licensure as medical radiographers by the department when determining if the requirements of subdivision (1)(c) of section 71-3515.01 have been met.

(2) The examination for limited radiographers shall include, but not be limited to:

(a) Radiation protection, equipment maintenance and operation, image production and evaluation, and patient care and management; and

(b) The anatomy of, and positioning for, specific regions of the human anatomy. The anatomical regions shall include at least one of the following:

- (i) Chest;
- (ii) Extremities;
- (iii) Skull and sinus;
- (iv) Spine; or
- (v) Ankle and foot.

(3) (2) The department shall adopt and promulgate rules and regulations regarding the testing examinations required in subdivision (1)(c)(ii) subdivisions (1)(a)(ii) and (2)(a) of section 71-3515.01. Such rules and regulations shall provide for (a) the development and administration of written and practical tests administration of examinations based upon national standards, such as the Examination in Radiography from the American Registry of Radiologic Technologists for medical radiographers, the Examination for the Limited Scope of Practice in Radiography from the American Registry of Radiologic Technologists for limited radiographers, or equivalent examinations that, as determined by the department, meet the standards for educational and psychological testing as recommended by the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education, (b) procedures to be followed for testing examinations, (c) the method of grading and the passing grades for such tests, examinations, (d) security protection for test questions and answers, and (e) for medical radiographers, the contents of such tests examination based on the course requirements for medical radiographers prescribed in subsection (1) of this section. Any costs incurred in determining the extent to which examinations meet the examining standards of this subsection shall be paid by the individual or organization proposing the use of such examination.

(3) (4) Any person employed in medical radiography before and on the operative date of this section who is not otherwise licensed may apply for a license as a provisional limited radiographer before January 1, 1996. A person licensed as a provisional limited radiographer may perform the duties of a limited radiographer licensed in all anatomical regions listed in subdivision (2)(b) of this section and the anatomical region of Abdomen. A provisional limited radiographer shall not radiograph children under the age

of six months, except (a) upon a finding by the department that continued provision of service for a community would be in jeopardy if this provision is enforced, (b) for an employee of a hospital licensed and in good standing under Chapter 71 and located in a rural area as defined in subdivision (8) of section 71-5653, or (c) in a bona fide emergency situation. No examination shall be required of individuals applying for a license as a provisional limited radiographer. All provisional limited radiographer licenses expire January 1, 2005. A license as a provisional limited radiographer is subject to discipline for violations of the Radiation Control Act and rules and regulations adopted pursuant to the act, including, but not limited to, revocation for nonpayment of fees or failure to meet continuing education requirements of subdivision (2)(b) of section 71-3515.01.

(5) No applicant for a license as a limited radiographer may take the examination for licensure, or for licensure for any specific anatomical region, more than three times without first waiting a period of one year after the last unsuccessful attempt of the examination and submitting proof to the department of completion of twelve units of continuing education meeting the requirements of subdivision (2)(b) of section 71-3515.01 for each subsequent attempt.

(6) The department shall adopt and promulgate rules and regulations establishing fees for the implementation of this section and section 71-3515.01, including an examination fee, an annual certification fee for X-ray system operators initial and renewal licensure fees for persons performing medical radiography, and a fee for approval of courses of instruction. In determining such fees, the department shall obtain sufficient funds from the fees to pay the direct and indirect costs of administering such sections. No fee shall exceed the actual cost to the department for examination and certification licensure. The fees shall be collected and remitted by the department to the State Treasurer for credit to the Department of Health Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering such sections.

Sec. 48. Section 71-5102, Revised Statutes Supplement, 1994, is amended to read:

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

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

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

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

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

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

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

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

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

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

(10) Certified ambulance attendant shall mean any individual fulfilling the requirements of section 71-5109 and shall include an emergency medical technician-ambulance technician meeting such requirements regardless

of whether such emergency medical ~~technician-ambulance~~ technician is a member of a transporting ambulance service or rescue service;

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

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

(13) Department shall mean the Department of Health;

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

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

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

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

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

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

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

(21) Emergency medical technician-IV or emergency medical technician-intravenous shall mean an emergency medical ~~technician-A~~ technician who has been additionally trained, tested, and certified in the use and operation of peripheral intravenous line initiation and maintenance pursuant to rules and regulations adopted and promulgated by the department;

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

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

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

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

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

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

(28) Intravenous shall mean within the vein;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 49. Section 71-5108, Revised Statutes Supplement, 1994, is amended to read:

71-5108. (1) No ambulance shall be licensed to transport any patient upon any street, road, highway, or public way in the State of Nebraska unless such ambulance, when so transporting patients, is occupied by at least one certified ambulance attendant. Such requirement shall be met if any of the individuals providing the service is a licensed physician, registered nurse, certified physician assistant, or licensed practical nurse as specified in section 71-5108.01 rather than a certified ambulance attendant. A certified physician assistant as defined in section 71-1,107.16 providing the service shall be entitled to provide all services authorized under sections 71-1,107.15 to 71-1,107.30.

(2) No emergency medical technician-A/D service shall be licensed to transport any patient upon any street, road, highway, or public way in this state unless at least one certified emergency medical technician-A/D technician is present on all runs to assist an emergency medical technician-A/D at the scene and during transportation.

(3) A first responder-A/D shall accompany the patient in an ambulance to operate the defibrillator and assist the certified ambulance attendants if the ambulance is not licensed to provide defibrillator services.

Sec. 50. Section 71-5109, Revised Statutes Supplement, 1994, is amended to read:

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

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

- (a) Be at least eighteen years of age;
- (b) Be of good moral character;
- (c) Have a current cardiopulmonary resuscitation certificate which was issued by an organization approved by the division; and

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

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

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

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

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

(vi) Be a currently certified first responder in Nebraska and successfully complete a Seventy-Hour First Responder-Emergency Medical Technician Bridge Course developed by the department and conducted by an institution, agency, corporation, or individual reviewed by the department and approved by the board and receive a grade of at least seventy percent on the final examination approved by the division.

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

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

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

(6) If a certificate of competency has been expired for less than two years, it may be renewed by presenting evidence of the completion during the preceding three years of thirty hours of continuing education in a combination of the skills, knowledge, or clinical experience which are the subject matters of ~~the~~ an emergency medical ~~technician-ambulance technician~~ technician course. If a certificate of competency has been expired for more than two years, it may be renewed by presenting evidence of the completion of ~~the~~ an emergency medical ~~technician-ambulance technician~~ refresher course conducted by a training agency approved by the division and the receipt of a grade of at least seventy percent on the final examination prepared by the division.

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

Sec. 51. Section 71-5110, Revised Statutes Supplement, 1994, is amended to read:

71-5110. The department, with the approval of the board, shall adopt, promulgate, and enforce rules and regulations providing minimum basic standards governing the required training of ambulance attendants, emergency medical technicians-A ~~technicians~~, emergency medical technicians-A/D, emergency medical technicians-AM, emergency medical technicians-IV, and first responders-A/D who are members of organizations providing ambulance, rescue, first responder-A/D, or prehospital emergency care services and the scope of their practice in basic life support.

Sec. 52. Section 71-5111, Revised Statutes Supplement, 1994, is amended to read:

71-5111. No certified ambulance attendant, emergency medical technician-A ~~technician~~, emergency medical technician-A/D, emergency medical technician-AM, emergency medical technician-IV, first responder-A/D, certified physician assistant, registered nurse, or licensed practical nurse who provides public emergency care, ambulance service, rescue service, or first responder service shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering in good faith any such service. Nothing in this section shall be deemed to grant any such immunity for liability arising out of the operation of any motor vehicle, aircraft, or boat or while such person was impaired by alcoholic liquor or any controlled substance enumerated in section 28-405, in connection with such service, nor shall immunity apply to any person causing damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission.

Sec. 53. Section 71-5127, Revised Statutes Supplement, 1994, is amended to read:

71-5127. (1) The competency of a certified emergency medical technician-A/D and a first responder-A/D shall be evaluated at least every six months. Each emergency medical technician-A/D and first responder-A/D shall demonstrate competency to the physician medical director or a person designated by the physician medical director by a practical test in the following areas:

(a) Knowledge and understanding of the protocols of the licensed emergency medical technician-A/D service or first responder-A/D service;

(b) Knowledge and understanding of the operation of the automatic or semiautomatic defibrillator or defibrillators used by the licensed service; and

(c) Knowledge and understanding of the record-keeping requirements of the licensed service.

(2) If an emergency medical technician-A/D or a first responder-A/D fails such evaluation, he or she may not act as an emergency medical technician-A/D or a first responder-A/D until such evaluation is successfully completed. The physician medical director shall inform the department within thirty days of any failure by an emergency medical technician-A/D or a first responder-A/D to pass such evaluation.

Sec. 54. Section 71-5133, Reissue Revised Statutes of Nebraska, is amended to read:

71-5133. Subject to section 71-5134, the department shall approve as an emergency medical technician-A/D instructor any person making application on a form prescribed by the department who:

(1) Is licensed to practice medicine and surgery pursuant to the Uniform Licensing Law; or

(2)(a) Has a high school diploma or a GED certificate;

(b) Is at least ~~nineteen~~ twenty-one years of age; and

(c) Has completed an approved emergency medical technician-A/D course and is an approved emergency medical ~~technician-A technician~~ instructor or has completed an approved emergency medical technician-A/D course and is an advanced cardiac life-support instructor.

Sec. 55. Section 71-5142, Revised Statutes Supplement, 1994, is amended to read:

71-5142. (1) The competency of a certified emergency medical technician-AM shall be evaluated at least every ~~three~~ six months. Each emergency medical technician-AM shall demonstrate competency to the physician medical director or a person designated by the physician medical director by a practical test, ~~which responsibility cannot be delegated by the physician medical director~~, in the following areas:

(a) Knowledge and understanding of the protocols of the licensed emergency medical technician-AM service;

(b) Knowledge and skill in the use of the nonvisualized advanced airway management devices used by the licensed service; and

(c) Knowledge and understanding of the record-keeping requirements of the licensed service.

(2) If an emergency medical technician-AM fails an evaluation, he or she may not act as an emergency medical technician-AM until such evaluation is successfully completed. The physician medical director shall inform the department within thirty days after the failure by an emergency medical technician-AM to pass an evaluation.

Sec. 56. Section 71-5147, Revised Statutes Supplement, 1994, is amended to read:

71-5147. (1) The department shall approve as an emergency medical technician-AM instructor any person who:

(a) Is licensed to practice medicine and surgery pursuant to the Uniform Licensing Law; or

(b)(i) Has a high school diploma or a general educational development certificate;

(ii) Is at least ~~nineteen~~ twenty-one years of age; and

(iii) Has completed an approved emergency medical technician-AM course and is an approved emergency medical ~~technician-A~~ technician instructor or has completed an approved emergency medical technician-AM course and is an advanced cardiac life-support instructor.

(2) An applicant for approval as an emergency medical technician-AM instructor shall file an application upon a form prescribed by the department and shall present proof satisfactory to the department that the proposed course meets the requirements of section 71-5146 and the rules and regulations adopted and promulgated under such section.

(3) The department may conduct such inspections or investigations of applicants and approved training courses as necessary to ensure compliance with this section and section 71-5146 and the rules and regulations adopted and promulgated under such sections.

Sec. 57. Section 71-5152, Revised Statutes Supplement, 1994, is amended to read:

71-5152. (1) The competency of a certified emergency medical technician-IV shall be evaluated at least every ~~three~~ six months. Each emergency medical technician-IV shall demonstrate competency to the physician medical director or a person designated by the physician medical director by a practical test, ~~which responsibility cannot be delegated by the physician medical director,~~ in the following areas:

(a) Knowledge and understanding of the protocols of the licensed emergency medical technician-IV service;

(b) Knowledge and skill in the insertion and monitoring of intravenous fluids used by the licensed service; and

(c) Knowledge and understanding of the record-keeping requirements of the licensed service.

(2) If an emergency medical technician-IV fails an evaluation, he or she may not act as an emergency medical technician-IV until such evaluation is successfully completed. The physician medical director shall inform the department within thirty days after the failure by an emergency medical technician-IV to pass an evaluation.

Sec. 58. Section 71-5157, Revised Statutes Supplement, 1994, is amended to read:

71-5157. (1) The department shall approve as an emergency medical technician-IV instructor any person who:

(a) Is licensed to practice medicine and surgery pursuant to the Uniform Licensing Law; or

(b)(i) Has a high school diploma or a general educational development certificate;

(ii) Is at least ~~nineteen~~ twenty-one years of age; and

(iii) Has completed an approved emergency medical technician-IV course and is an approved emergency medical ~~technician-A~~ technician instructor or has completed an approved emergency medical technician-IV course and is an advanced cardiac life-support instructor.

(2) An applicant for approval as an emergency medical technician-IV instructor shall file an application upon a form prescribed by the department and shall present proof satisfactory to the department that the proposed course meets the requirements of section 71-5156 and the rules and regulations adopted and promulgated under such section.

(3) The department may conduct such inspections or investigations of applicants and of approved training courses as necessary to ensure compliance with this section and section 71-5156 and the rules and regulations adopted and promulgated under such sections.

Sec. 59. Section 71-5514.01, Revised Statutes Supplement, 1994, is amended to read:

71-5514.01. No person shall be certified as an emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic unless such person submits satisfactory proof that the applicant (1) is of good moral character, (2) has completed four years of high school study or its equivalent as determined by the board, (3) has completed an approved training program for the education and training of emergency medical technicians-D, emergency medical technicians-intermediate, or emergency medical technician-paramedics and holds a certificate indicating successful completion of such program, (4) is of the age of majority at the time of certification eighteen years of age, (5) is of good mental and physical health, (6) has successfully passed an examination determined by the board to be appropriate to the level of certification being sought, (7) holds a current certificate of competency to act as a certified ambulance attendant issued pursuant to section 71-5109, and (8) has complied with all applicable provisions of the Emergency Medical Technician-Paramedic Act and the rules and regulations adopted and promulgated under the act.

Sec. 60. Section 71-6001, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6001-~~ For purposes of sections 60 to 72 of this act:

- (1) Department means As used in sections 71-6001 to 71-6007, unless otherwise stated; ~~(1) department shall mean~~ the Department of Health; and
 (2) Director means director shall mean the Director of Health; and
 (3) Health care facility means an institution subject to licensing under sections 71-2017 to 71-2029.

Sec. 61. Section 71-6002, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6002-~~ The department Department of Health may petition the district court for appointment of a receiver for a nursing home health care facility when any of the following conditions exist:

- (1) If the department determines that the health, safety, or welfare of the residents or patients is in immediate danger;
 (2) The nursing home health care facility is operating without a license;

(3) The department has suspended, revoked, or refused to renew the existing license of the nursing home health care facility;

(4) The nursing home health care facility is closing, or has informed the department that it intends to close, and adequate arrangements for the relocation of the residents or patients of such nursing home health care facility have not been made at least thirty days prior to closure; or

(5) The department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, and because of the unwillingness or inability of the licensee, owner, or operator to remedy the emergency, the department believes a receiver is necessary.

Sec. 62. Section 71-6003, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6003-~~ (1) The department shall file the petition for the appointment of a receiver provided for in section 61 of this act ~~71-6002 shall be filed in the district court of the county where the nursing home health care facility is located and shall request that an individual be appointed as a receiver be appointed for the health care facility. for the nursing home with the responsibility of bringing the operation and condition of the nursing home into conformity with the provisions of sections 71-6001 to 71-6007 and the rules and regulations adopted and promulgated pursuant thereto. The individual appointed as a receiver for a nursing home shall be licensed by the State of Nebraska as a nursing home administrator or be a hospital administrator.~~

(2) The court shall expeditiously hold a hearing on the application, at which time the petition within seven days after the filing of the petition. The director shall present evidence at the hearing in support of the application petition. The licensee, owner, or operator against whose nursing home the petition is filed may also present evidence, and both parties may subpoena witnesses. The court may appoint a temporary receiver for the nursing home in advance of the hearing health care facility ex parte if the director, by affidavit, states that an emergency exists which presents an imminent danger of resultant death or physical harm to the residents or patients of the nursing home health care facility. If a temporary receiver is appointed, notice of the petition and order shall be served on the licensee, owner, operator, or administrator of the health care facility within seventy-two hours after the entry of the order. The petition and order may be served by any method specified in section 25-505.01 or the court may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence by any of the methods

specified in section 25-505.01. A hearing on the petition and temporary order shall be held within seventy-two hours after notice has been served unless the licensee, owner, or operator consents to a later date. After the hearing the court may terminate, continue, or modify the temporary order. If the court determines that the department did not have probable cause to submit the affidavit in support of the appointment of the temporary receiver, the court shall have the jurisdiction to determine and award compensatory damages against the state to the owner or operator. If the licensee, owner, or operator against whose nursing home the receivership petition is filed informs the court at or before the time set for hearing that he or she the licensee does not object to the application petition, the court shall waive the hearing and at once appoint a receiver for the nursing home health care facility.

(3) The purpose of a receivership created under this section is to safeguard the health, safety, and continuity of care of residents and patients and to protect them from adverse health effects. A receiver shall not take any actions or assume any responsibilities inconsistent with this purpose. No person shall impede the operation of a receivership created under this section. After the appointment of a receiver, there shall be an automatic stay of any action that would interfere with the functioning of the health care facility, including, but not limited to, cancellation of insurance policies executed by the licensee, owner, or operator, termination of utility services, attachments or setoffs of resident trust funds or working capital accounts, and repossession of equipment used in the health care facility. The stay shall not apply to any licensure, certification, or injunctive action taken by the department. The court, on the basis of the petition, the director's affidavit, if any, and evidence presented at the hearing, may order the nursing home placed in receivership, and if so ordered, the court shall direct either that the receiver assume the duties of the administrator of the nursing home or that the receiver supervise the nursing home's administrator in conducting the day-to-day business of the nursing home. The receiver shall be empowered to control the nursing home's financial resources and to apply its revenue as the receiver deems necessary to the operation of the nursing home in compliance with sections 71-6001 to 71-6007 and the rules and regulations adopted and promulgated pursuant thereto, but shall be accountable to the court for his or her management of the nursing home's financial resources.

Sec. 63. When a receiver is appointed under section 62 of this act, the licensee, owner, or operator shall be divested of possession and control of the health care facility in favor of the receiver. The appointment of the receiver shall not affect the rights of the owner or operator to defend against any claim, suit, or action against such owner or operator or the health care facility, including, but not limited to, any licensure, certification, or injunctive action taken by the department. A receiver shall:

(1) Take such action as is reasonably necessary to protect and conserve the assets or property of which the receiver takes possession or the proceeds of any transfer of the assets or property and may use them only in the performance of the powers and duties set forth in this section and section 64 of this act or by order of the court;

(2) Apply the current revenue and current assets of the health care facility to current operating expenses and to debts incurred by the licensee, owner, or operator prior to the appointment of the receiver. The receiver may apply to the court for approval for payment of debts incurred prior to appointment if the debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the health care facility or if the payment of the debts will interfere with the purposes of the receivership. The receiver shall give priority to expenditures for current, direct resident care, including nursing care, social services, dietary services, and housekeeping;

(3) Be responsible for the payment of taxes against the health care facility which become due during the receivership, including property taxes, sales and use taxes, withholding taxes imposed pursuant to the Federal Insurance Contributions Act, and other payroll taxes, but not including state and federal taxes which are the liability of the owner or operator;

(4) Be entitled to and take possession of all property or assets of residents or patients which are in the possession of the licensee, owner, operator, or administrator of the health care facility. The receiver shall preserve all property, assets, and records of residents or patients of which the receiver takes possession and shall provide for the prompt transfer of the property, assets, and necessary and appropriate records to the alternative placement of any transferred or discharged resident;

(5) Upon order of the court, provide for the orderly transfer of all

residents or patients in the health care facility to other suitable facilities if correction of violations of federal and state laws and regulations is not possible or cannot be completed in a timely manner or there are reasonable grounds to believe the health care facility cannot be operated on a sound financial basis and in compliance with all applicable federal or state laws and regulations or make other provisions for the continued health, safety, and welfare of the residents or patients.

(6) Perform regular accountings; and

(7) Make periodic reports to the court and the department.

Sec. 64. A receiver appointed under section 62 of this act may exercise those powers and shall perform those duties set out by the court. A receiver may:

(1) Assume the role of administrator and take control of day-to-day operations or name an administrator to conduct the day-to-day operations of the health care facility subject to the supervision and direction of the receiver;

(2) Remedy violations of federal and state laws and regulations governing the operation of the health care facility;

(3) Let contracts and hire agents and employees, including legal counsel, to carry out the powers and duties of the receiver; and

(4) Hire or discharge any employees including the administrator.

Sec. 65. The receiver in its discretion may, but shall not be required to, defend any claim, suit, or action against the receiver or the health care facility arising out of conditions, actions, or circumstances occurring or continuing at the health care facility after the appointment of the receiver. The receiver in its discretion may, but shall not be required to, defend any licensure, certification, or injunctive action initiated by the department after its appointment. The receiver shall not appeal or continue the appeal of any licensure or certification action initiated by the department against the health care facility before the appointment of the receiver. The receiver shall cooperate with the owner or operator in any defense undertaken by the owner or operator against any claim, suit, or action against him or her or the health care facility, including, but not limited to, any licensure, certification, or injunctive action taken by the department.

Sec. 66. The department may inspect the health care facility at any time during the receivership, and the receiver shall cooperate with the department in any such inspection. All records required by federal or state statutes and regulations shall be kept on the premises of the health care facility and shall be available for inspection and copying by any authorized employee of the department.

Sec. 67. The receiver is responsible for the conduct of the health care facility during the receivership. The department may apply to the court for an order terminating the appointment of a receiver and appointing a successor receiver when violations of federal or state laws or regulations occur during the receivership or for other appropriate reasons.

Sec. 68. Section 71-6004, Reissue Revised Statutes of Nebraska, is amended to read:

71-6004. (1) A receivership established pursuant to sections 71-6001 to 71-6007 under section 62 of this act may be terminated by the district court which established it after a hearing upon an application for termination. The application may be filed:

(a) (1) Jointly by the receiver and the current licensee of the nursing home health care facility which is in receivership, stating that the deficiencies in the operation, maintenance, or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to believe that the health care facility will be operated in compliance with all applicable statutes and the rules and regulations adopted and promulgated pursuant thereto;

(b) (2) By the current licensee of the nursing home health care facility, alleging that termination of the receivership is merited for the reason reasons set forth in subdivision (1) (a) of this section subsection, but that the receiver has declined to join in the petition for termination of the receivership; or

(c) (3) By the receiver, stating that all residents or patients of the health care facility have been relocated elsewhere and that there are reasonable grounds to believe it will not be feasible to again operate the health care facility on a sound financial basis and in compliance with sections 71-6001 to 71-6007 and any rules and regulations adopted and promulgated pursuant thereto, federal and state laws and regulations and asking that the court approve the surrender of the nursing home's license of the health care facility to the department and the subsequent return of the control of the nursing home's premises of the health care facility to the

owner of the premises; or

(d) By the department (i) stating that the deficiencies in the operation, maintenance, or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to believe that the health care facility will be operated in compliance with all applicable statutes and the rules and regulations adopted and promulgated pursuant thereto or (ii) stating that there are reasonable grounds to believe that the health care facility cannot be operated in compliance with federal or state law and regulations and asking that the court order the removal of the residents or patients to appropriate alternative placements, the closure of the facility, and the license, if any, surrendered to the department or that the health care facility be sold under reasonable terms approved by the court to a new owner approved for licensure by the department.

(2) If the receivership has not been terminated within twelve months after the appointment of the receiver, the court shall, after hearing, order either that the health care facility be closed after an orderly transfer of the residents or patients to appropriate alternative placements or that the health care facility be sold under reasonable terms approved by the court to a new owner approved for licensure by the department. The receivership period may be extended as necessary to protect the health, safety, and welfare of the residents or patients.

Sec. 69. Section 71-6005, Reissue Revised Statutes of Nebraska, is amended to read:

71-6005. Payment The health care facility for which a receiver is appointed shall be responsible for payment of the expenses of a receivership established under section 62 of this act pursuant to section 71-6003 shall be the responsibility of the nursing home for which the receiver is appointed unless the court directs otherwise. The expenses include, but are not limited to:

(1) Compensation for the receiver and any related receivership expenses;

(2) Expenses incurred by the health care facility for the continuing care of the residents or patients of the health care facility;

(3) Expenses incurred by the health care facility for the maintenance of buildings and grounds of the health care facility; and

(4) Expenses incurred by the health care facility in the ordinary course of business, such as employees' salaries and accounts payable.

Sec. 70. No person shall bring an action against a receiver appointed under section 62 of this act without first securing leave of the court. The receiver is liable in his or her personal capacity for intentional wrongdoing or gross negligence. In all other cases, the receiver is liable in his or her official capacity only, and any judgment rendered shall be satisfied out of the receivership assets. The receiver is not personally liable for the expenses of the health care facility during the receivership. The receiver is an employee of the state only for the purpose of defending a claim filed against the receiver. The Attorney General shall defend or arrange for the defense of all suits filed against the receiver personally.

Sec. 71. Section 71-6006, Reissue Revised Statutes of Nebraska, is amended to read:

71-6006. Sections 62 to 70 of this act 71-6003 to 71-6005 shall not:

(1) Preclude the sale or lease of a nursing home and the transfer or assignment of the nursing home's license health care facility as otherwise provided by law; or

(2) Affect the civil or criminal liability of the licensee, owner, or operator of the health care facility placed in receivership for any acts or omissions of the licensee, owner, or operator which occurred before the receiver was appointed.

Sec. 72. Section 71-6007, Reissue Revised Statutes of Nebraska, is amended to read:

71-6007. (1) Any person who prevents or interferes with or attempts to impede in any way any duly authorized representative of the department in the lawful enforcement of sections 71-6001 to 71-6007 or any rules and regulations adopted pursuant thereto sections 60 to 72 of this act shall be guilty of a Class IV misdemeanor. As used in For purposes of this subsection, lawful enforcement includes, but is not limited to, (a) contacting or interviewing any resident or patient of a nursing home health care facility in private at any reasonable hour and without advance notice, (b) examining any relevant books or records of a nursing home health care facility, or (c) preserving evidence of any violations of sections 71-6001 to 71-6007 or any rules and regulations adopted and promulgated pursuant thereto sections 60 to

72 of this act.

(2) The county attorney of the county in which the nursing home health care facility is located or the Attorney General may be requested by the director to initiate prosecution.

Sec. 73. Section 71-6301, Revised Statutes Supplement, 1994, is amended to read:

71-6301. For purposes of the Asbestos Control Act, unless the context otherwise requires:

(1) Asbestos ~~shall mean~~ means asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite;

(2) Asbestos encapsulation project ~~shall mean~~ means activities which include the coating of asbestos-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing the continued release of asbestos fibers from the material into the air. Such project ~~shall~~ does not include the repainting of a previously painted nonfriable asbestos-containing surface which is not damaged primarily for improving the appearance of such surface;

(3) Asbestos enclosure project means activities which physically isolate friable asbestos and which control and contain fibers released from asbestos-containing material by constructing a permanent airtight barrier between the asbestos-containing material and the occupied building space;

(4) Asbestos occupation ~~shall mean~~ means an inspector, management planner, project designer, project monitor, supervisor, or worker;

~~(4)~~ (5) Asbestos project ~~shall mean~~ means an asbestos enclosure project, an asbestos encapsulation project, an asbestos removal project, an asbestos-related demolition project, or an asbestos-related dismantling project but ~~shall~~ does not include (a) any activities which affect three square feet or less or three linear feet or less of asbestos-containing material on or in a structure or equipment or any appurtenances thereto or (b) any activities physically performed by a homeowner, a member of the homeowner's family, or an unpaid volunteer on or in the homeowner's residential property of four units or less;

~~(5)~~ (6) Asbestos removal project ~~shall mean~~ means activities which include the physical removal ~~or enclosure~~ of friable asbestos-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal, ~~or enclosure~~. Such project ~~shall also include~~ also includes the physical removal of asbestos from a structure or equipment after such structure or equipment has been removed as part of an asbestos-related dismantling project;

~~(6)~~ (7) Asbestos-related demolition project ~~shall mean~~ means activities which include the razing of all or a portion of a structure which contains friable asbestos-containing materials or other asbestos-containing materials which may become friable when such materials are cut, crushed, ~~or broken ground, abraded, or pulverized~~;

~~(7)~~ (8) Asbestos-related dismantling project ~~shall mean~~ means activities which include the disassembly, handling, and moving of the components of any structure or equipment which has been coated with asbestos-containing material without first removing such material from the structure or from the equipment;

~~(8)~~ (9) Business entity ~~shall mean~~ means a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern involved in an asbestos project except an entity solely involved as a management planner or project designer;

~~(9)~~ (10) Certificate ~~shall mean~~ means an authorization issued by the department permitting an individual person to work in an asbestos occupation;

~~(11)~~ (11) Demolition ~~means~~ the wrecking, razing, or removal of any structure or load-supporting structural item of any structure, including any related material handling operations, and includes the intentional burning of any structure;

~~(10)~~ (12) Department ~~shall mean~~ means the Department of Health;

~~(11)~~ (13) Director ~~shall mean~~ means the Director of Health or his or her designee;

~~(12)~~ (14) Enclosure ~~shall mean~~ means the construction of an airtight, impermeable, permanent barrier around asbestos-containing material to control the release of asbestos fibers into the air;

~~(13)~~ (15) Friable asbestos ~~shall mean~~ means asbestos in a form which can be crumbled, pulverized, or reduced to powder by hand pressure;

~~(14)~~ (16) Inspector ~~shall mean~~ means an individual who is certified by the department to identify and assess the condition of asbestos-containing material;

(17) Instructor means an individual who is approved by the

department to teach an asbestos-related training course;

~~(15)~~ (18) License ~~shall mean means~~ an authorization issued by the department permitting a business entity to engage in an asbestos project;

~~(16)~~ (19) Management planner ~~shall mean means~~ an individual who is certified by the department to assess the hazard of materials containing asbestos, to determine the appropriate response actions, and to write management plans;

~~(17)~~ (20) Project designer ~~shall mean means~~ an individual who is certified by the department to formulate plans and write specifications for conducting asbestos projects;

~~(21) Project monitor means an individual who is certified by the department to observe abatement activities performed by contractors, to represent the building owner to ensure work is completed according to specifications and in compliance with statutes and regulations, and to perform air monitoring to determine final clearance;~~

~~(18)~~ (22) Project review ~~shall mean means~~ review of a licensed business entity's proposed asbestos project;

~~(23) Renovation means the altering of a structure, one or more structural items, or one or more equipment items in any way, including any asbestos project performed on a structure, structural item, or equipment item;~~

~~(19)~~ (24) Supervisor ~~shall mean means~~ an individual who is certified by the department to supervise and direct an asbestos project in accordance with the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to such act; and

~~(20)~~ (25) Worker ~~shall mean means~~ an individual who is certified by the department to clean, handle, repair, remove, encapsulate, haul, dispose of, or otherwise work with asbestos material in a nonsupervisory capacity.

Sec. 74. Section 71-6303, Revised Statutes Supplement, 1994, is amended to read:

71-6303. (1) The department shall administer the Asbestos Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out ~~such the~~ act. The department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in ~~such the~~ state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For certification or recertification of a worker, not less than thirty-five dollars or more than one hundred dollars;

(c) For certification or recertification of a supervisor, not less than seventy dollars or more than two hundred dollars;

(d) For certification or recertification of an inspector, not less than seventy dollars or more than two hundred dollars;

(e) For certification or recertification of a management planner, not less than one hundred dollars or more than three hundred dollars, which fee shall include certification or recertification as an inspector;

(f) For certification or recertification of a project designer, not less than seventy dollars or more than two hundred dollars;

~~(g) For certification or recertification of a project monitor, not less than one hundred dollars or more than three hundred dollars;~~

~~(g)~~ (h) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

~~(h)~~ (i) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

~~(i)~~ (j) For approval of ~~a~~ an initial training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if ~~such the~~ inspection is required by the department;

~~(j)~~ (k) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if ~~such the~~ inspection is required by the department;

~~(k)~~ (l) For an onsite ~~inspections~~ inspection of an asbestos project other than an initial ~~inspections~~ inspection, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual asbestos project is in progress; and

(l) For a provisional license, not less than two thousand dollars or more than five thousand dollars;

(m) For a provisional certificate, not less than thirty-five dollars or more than three hundred dollars; and

(n) (m) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

All fees shall be based on the costs of administering the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering ~~such~~ the act.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection of each licensed business entity's procedures for performing asbestos projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

Sec. 75. Section 71-6310, Reissue Revised Statutes of Nebraska, is amended to read:

71-6310. (1) An individual person shall not be eligible to work on an asbestos project unless the person holds a certificate issued by the department.

(2) The department shall issue the following classes of certificates: Worker; supervisor; inspector; management planner; project monitor; and project designer. To qualify for a certificate of a particular class, a person shall have (a) successfully completed a training course approved or administered by the department, (b) been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator, and (c) passed an examination approved or administered by the department with at least the minimum score prescribed by the department.

(3) A certificate or renewal certificate shall be valid for one year from the date of issuance. To qualify for a renewal certificate, the applicant shall meet the requirements of section 71-6310.02.

(4) Applications for certificates and renewal certificates An application for a certificate, a renewal certificate, or approval shall be submitted to the department on forms a form prescribed by the department and shall be accompanied by the prescribed fee.

(5) As an alternative to the qualifications in subdivision (2)(a) of this section, a person shall have completed a fully accredited United States Environmental Protection Agency Asbestos Hazard Emergency Response Act training program or the person shall be currently accredited by a United States Environmental Protection Agency fully accredited state asbestos model accreditation plan adopted pursuant to 40 C.F.R. 763. In addition to the alternative qualifications, the person shall successfully complete a four-hour course approved by the department on Nebraska law, rules, and regulations and shall pass an examination thereon which shall be approved and may be administered by the department.

(6) The department may issue a limited certificate to a project designer or management planner who does not intend to enter any management plan, project design, or asbestos project work site. An applicant for a limited certificate under this subsection shall not be required to comply with the requirements of subdivision (2)(b) of this section. A holder of a limited certificate shall not enter any management plan, project design, or asbestos

project work site. ~~Such~~ The limitation shall be endorsed upon the certificate. Violation of ~~such~~ the limitation shall be grounds for disciplinary action against the certificate pursuant to section 71-6314.

(7) The department shall approve instructors of training courses. To qualify for approval an individual shall have (a) graduated from high school or obtained a general educational development certificate or equivalent document as determined by the department, (b) successfully completed an approved four-hour course on Nebraska law, rules, and regulations, and (c) at least one year of actual work experience in the asbestos industry.

Sec. 76. Section 71-6310.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-6310.01. (1) The department shall approve training courses for each classification of asbestos occupation. Applicants for course approval shall meet the requirements for each course and shall submit an application on forms provided by the department together with the prescribed fee. Approved course providers shall use only approved instructors to teach each training course. The department shall conduct onsite inspections of the training courses offered by course providers.

(2) In order to be approved by the department, an initial inspector training course shall meet the following requirements: A three-day training course including lectures, demonstrations, a field trip, at least four hours of hands-on training, individual respirator-fit testing, and a written examination; background information on asbestos and potential health effects related to exposure to asbestos; functions, qualifications, and the role of inspectors; legal liabilities and defenses; understanding building systems; public, employee, and occupant relations; preinspection planning and review of previous inspection records and inspecting for friable and nonfriable asbestos-containing material and assessing the condition of asbestos-containing material; bulk sampling and documentation of asbestos; inspector respiratory protection and personal protective equipment; and record keeping and inspection report writing, regulatory review, and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(3) In order to be approved by the department, a an initial management planner training course shall meet the following requirements: A three-day inspector training course as outlined in subsection (2) of this section and a two-day management planner training course including lectures, demonstrations, and a written examination; course overview; evaluation and interpretation of survey results, hazard assessment, and legal implications; evaluation and selection of control options; role of other professionals; developing an operations and maintenance plan; and regulatory review, record keeping for the management planner, assembling and submitting the management plan, financing abatement actions, and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(4) In order to be approved by the department, a an initial project designer training course shall meet the following requirements: A three-day training course including lectures, demonstrations, a field trip, and a written examination; or a four-day supervisor training course as outlined in subsection (5) of this section; background information on asbestos and potential health effects related to asbestos exposure; overview of abatement construction projects; safety system design specifications, employee personal protective equipment, and additional safety hazards; fiber aerodynamics and control, designing abatement solutions, final clearance process, and budgeting and cost estimation; writing abatement specifications and preparing abatement drawings; contract preparation and administration and legal liabilities and defenses; replacement of asbestos with asbestos-free substitutes; role of other consultants; occupied buildings; and relevant federal, state, and local regulatory requirements and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(5) In order to be approved by the department, an initial project monitor training course shall meet the following requirements: A five-day asbestos training course including lectures, demonstrations, at least six hours of hands-on training, and a written examination; roles and responsibilities of the project monitor; characteristics of asbestos and asbestos-containing materials; federal and state asbestos regulation overview; understanding building construction and building systems; asbestos abatement contracts, specifications, and drawings; response actions and abatement

practices; asbestos abatement equipment; personal protective equipment; air monitoring strategies; safety and health issues other than asbestos; conducting visual inspections; final clearance process; legal responsibilities and liabilities of project monitors; record keeping and report writing; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(6) ~~(5)~~ In order to be approved by the department, a an initial supervisor training course shall meet the following requirements: A four-day five-day asbestos training course including lectures, demonstrations, at least ~~six~~ fourteen hours of hands-on training, individual respirator-fit testing, and a written examination; the physical characteristics of asbestos and asbestos-containing materials and potential health effects related to asbestos exposure; employee personal protective equipment, state-of-the-art work practices, personal hygiene, additional safety hazards, medical monitoring, and air monitoring; relevant federal, state, and local regulatory requirements; respiratory protection programs, medical surveillance programs, and insurance and liability issues; record keeping for asbestos abatement projects and supervisory techniques for asbestos abatement activity; contract specifications; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(7) ~~(6)~~ In order to be approved by the department, a an initial worker training course shall meet the following requirements: A three-day four-day training course including lectures, demonstrations, at least ~~six~~ fourteen hours of hands-on training, individual respirator-fit testing, and a written examination; physical characteristics of asbestos, potential health effects related to asbestos exposure, employee personal protective equipment, state-of-the-art work practices, personal hygiene, additional safety hazards, medical monitoring, and air monitoring; relevant federal, state, and local regulatory requirements, procedures, and standards; establishment of respiratory protection programs; and course review. The written examination shall be approved and may be administered by the department and shall be composed of questions covering subjects dealing with the course content. The passing score shall be determined by the department.

(8) ~~(7)~~ In order to be approved by the department, a course on Nebraska law, rules, and regulations required by subsection (5) of section 71-6310 shall consist of at least four hours of training on Nebraska law, rules, and regulations relating to asbestos. The written examination shall be approved and may be administered by the department. The passing score shall be determined by the department.

Sec. 77. Section 71-6311, Reissue Revised Statutes of Nebraska, is amended to read:

71-6311. No state agency, county, city, village, school district, or other political subdivision shall accept a bid in connection with any asbestos project which is two hundred sixty or more linear feet or one hundred sixty or more square feet and linear feet in any combination from a business entity which does not hold a license from the department at the time the bid is submitted.

Sec. 78. If a project designer or a project monitor is selected by the structure's owner or operator for an asbestos project, the project designer and project monitor shall be responsible for the following:

(1) Project designers shall prepare plans and specifications for business entities conducting asbestos projects. The plans and specifications shall be consistent with the criteria, requirements, and best interests of the structure's owner or operator and the requirements of the Asbestos Control Act. The project designer shall represent the owner or operator and ensure that these objectives are achieved by the business entity conducting the project throughout the project.

(2) Prior to preparing plans and specifications for any renovation project, a project designer shall ensure that any equipment items and any structural items of a structure affected by the renovation were inspected and assessed by a certified inspector. Prior to preparing plans and specifications for any demolition, a project designer shall ensure that the entire structure was inspected and assessed by a certified inspector. No dismantling or salvage operation shall begin before the inspection and assessment is completed.

(3) If a project designer or project monitor is selected by the owner or operator of the structure on or in which the asbestos project is conducted, he or she shall be independent of the business entity selected to

perform the asbestos project. A private or public business entity which uses its own trained and certified employees to perform asbestos projects may also use its own employees who are trained and certified as project designers or project monitors to design and monitor projects conducted on or in its own structures; and

(4) If a project designer or project monitor is selected by the structure's owner or operator for an asbestos project, the project designer or project monitor shall oversee the activities of a business entity conducting an asbestos project to ensure that the requirements of the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to the act are met. Prior to allowing an asbestos project site to be returned to normal occupancy or function, a project designer or project monitor shall ensure that all waste, debris, and residue have been removed from the site in compliance with the act and the rules and regulations adopted and promulgated pursuant to the act.

Sec. 79. Section 71-6314, Reissue Revised Statutes of Nebraska, is amended to read:

71-6314. (1) When the department determines that a licensee has violated the Asbestos Control Act or any rule and regulation adopted and promulgated pursuant to such the act, the department may, rather than initially instituting disciplinary proceedings pursuant to subsection (2) of this section, within seven working days after a finding of a violation is made, issue a citation to the licensee. The citation shall be served upon the licensee personally or by certified mail. Each citation shall specifically describe the nature of the violation and identify the statute, rule, or regulation violated. When a citation is served upon the licensee, the licensee shall have seven working days to remedy the violation. If such violation has not been remedied at the end of such time, the department may take such other action as is deemed appropriate pursuant to the ~~act~~ Asbestos Control Act and the Administrative Procedure Act.

(2) Independent of the provisions of subsection (1) of this section, a license, or certificate, or approval issued pursuant to the ~~act~~ Asbestos Control Act may be denied, refused renewal, suspended, or revoked when the applicant, licensee, or certificate holder violates any of the provisions of the act, fraudulently or deceptively obtains or attempts to obtain a license, or certificate, or approval, fails at any time to meet the qualifications for a license, or certificate, or approval, fails to comply with rules and regulations adopted and promulgated pursuant to the act, fails to meet any applicable state standard for asbestos projects, or employs or permits an uncertified person to work in an asbestos occupation.

(3) In addition to the disciplinary actions provided for in subsection (2) of this section, the department may assess a civil penalty of not less than one thousand dollars nor more than twenty-five thousand dollars for each offense committed by any business entity licensed under the act or not less than one hundred dollars nor more than five thousand dollars for each offense committed by a person certified under the act for violation of the act or any rule or regulation adopted and promulgated pursuant thereto. Each day a violation continues shall constitute a separate offense.

(4) Whenever the department determines to deny, refuse to renew, suspend, or revoke a license, or certificate, or approval or assess a civil penalty, it shall send to the applicant, licensee, or certificate holder a notice setting forth the particular reasons for the determination. The denial, suspension, refusal to renew, revocation, or assessment of a civil penalty shall become final thirty days after the mailing of the notice unless the applicant, certificate holder, or licensee gives written notice to the department of a desire for a hearing. If a hearing is requested, the applicant, certificate holder, or licensee shall be given a hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination shall be affirmed, modified, or set aside, and a copy of such decision setting forth the findings of fact and the particular reasons upon which such decision was based shall be sent by certified mail to the applicant, certificate holder, or licensee. The decision shall become a final decision of the department and may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(5) Hearings held pursuant to this section shall be held in accordance with the Administrative Procedure Act and the rules and regulations adopted and promulgated by the department under such act.

(6) Any civil penalty assessed and unpaid under the Asbestos Control Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall,

within thirty days of receipt, transmit any collected civil penalty to the State Treasurer for deposit in the permanent school fund.

Sec. 80. Section 71-6317, Reissue Revised Statutes of Nebraska, is amended to read:

71-6317. Sections 71-6301 to 71-6317 and section 78 of this act shall be known and may be cited as the Asbestos Control Act.

Sec. 81. Section 71-6801, Revised Statutes Supplement, 1994, is amended to read:

71-6801. Sections 71-6801 to 71-6831 shall be known and may be cited as the Clinical Laboratories Certification Act. Sections 71-6802 to 71-6828, 71-6830, and 71-6831 shall become operative October 1, 1995 1997.

Sec. 82. Section 71-7001, Revised Statutes Supplement, 1994, is amended to read:

71-7001. For purposes of sections 71-7001 to 71-7013:

(1) Department shall mean means the Department of Health;
 (2) Mammogram shall mean means the X-ray resulting from mammography;
 (3) Mammography shall mean means radiological examination of the breast for the purpose of obtaining a mammogram which enables a physician to assess the presence, size, location, and extent of cancerous or potentially cancerous tissue;

(4) Mammogram supplier shall mean means a public, private, for-profit, or not-for-profit agency or health care facility that provides mammography;

(5) Screening mammogram shall mean means the X-ray resulting from screening mammography;

(6) Screening mammography shall mean means radiological examination of the breast of asymptomatic women for the early detection of breast cancer, which examination shall include includes (a) a cranio-caudal and a medial lateral oblique view of each breast and (b) a licensed radiologist's interpretation of the results of the procedure. Screening mammography shall does not include diagnostic mammography, additional projections required for lesion definition, breast ultrasound, or any breast interventional procedure;

(7) X-ray system operator shall mean means Medical radiographer means a person licensed pursuant to subsection (1) of section 71-3515.01, other than a licensed practitioner or a certified physician assistant, who operates an X-ray system practices medical radiography under the supervision of a licensed practitioner;

(8) False negative result shall mean means a mammogram which indicates no possible cancer when a cancer exists;

(9) False positive result shall mean means a mammogram which indicates a possible cancer when none exists;

(10) Professional component shall mean means the interpretation of a screening mammogram and a written report regarding the interpretation provided by a mammogram supplier; and

(11) Technical component shall mean means a screening mammogram and all other services provided by a mammogram supplier.

Sec. 83. Section 71-7004, Revised Statutes Supplement, 1994, is amended to read:

71-7004. A mammogram supplier shall be eligible for reimbursement pursuant to section 71-7003 only if:

(1) The mammogram supplier is certified by the department as meeting the standards of the United States Department of Health and Human Services to provide screening mammography provided in ~~42 C.F.R. parts 405, 410, 411, 413, and 494~~ the federal Mammography Quality Standards Act of 1992;

(2) The mammogram supplier provides screening mammography, including a physician's interpretation of the images or films produced by the radiologic procedure;

(3) The mammogram supplier agrees to accept as payment in full the current reimbursement rate for the technical and professional components of screening mammography established pursuant to section 71-7003;

(4) The mammogram supplier agrees to provide mammography screening under sections 71-7001 to 71-7013 in conformance with the conditions of its federal certification for screening mammography;

(5) The mammogram supplier agrees to provide to the department a written report on the interpretation of the results of the screening mammogram procedure; and

(6) The mammogram supplier agrees to comply with federal grant management requirements as applicable to the supplier in the event that federal grant funds are part of the program.

Sec. 84. Section 71-7012, Revised Statutes Supplement, 1994, is amended to read:

71-7012. There is hereby established the Mammography Screening

Committee consisting of not more than sixteen volunteer members, at least eight of whom are women, appointed by the Director of Health. Members of the committee shall be persons interested in health care and the promotion of breast cancer screening and shall be drawn from both the private sector and the public sector. At least one member shall be a person who has or who has had breast cancer, one member shall be a radiologist, and one member shall be an X-ray system operator a medical radiographer.

Of the initial members of the committee, four shall be appointed for terms of one year and four shall be appointed for terms of two years. Thereafter, all appointments shall be for terms of two years. All members shall serve until their successors are appointed. No member shall serve more than two successive two-year terms. Vacancies in the membership of the committee for any cause shall be filled by appointment by the director for the unexpired term.

Duties of the committee shall include, but not be limited to, recommending guidelines for the program established under section 71-7002, developing and monitoring the schedule of fees established pursuant to section 71-7009, encouraging payment of public and private funds to the Mammography Screening Cash Fund, researching and recommending to the department reimbursement limits, and planning and implementing outreach and educational programs to Nebraska women. Members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 85. Section 71-7303, Revised Statutes Supplement, 1994, is amended to read:

71-7303. For purposes of the First Responders Emergency Rescue Act:

(1) Automatic defibrillator shall have the definition found in section 71-5102;

(2) Basic life support shall mean those acts ordinarily performed after training by emergency medical technicians or first responders, including cardiopulmonary resuscitation and the use of oxygen, syrup of ipecac, pharyngeal airways, and pneumatic antishock garments, and not specifically preempted and separately licensed under the Emergency Medical Technician-Paramedic Act. Automatic and semiautomatic defibrillation under the licensing and certification procedures in rules and regulations adopted and promulgated by the department can also be done by basic life support personnel;

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

(4) Defibrillation shall have the definition found in section 71-5102;

(5) Department shall mean the Department of Health;

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

(7) First responder shall mean a person certified by the department pursuant to section 71-7304 to locate and provide initial basic life support to patients at the scene of an emergency;

(8) First responder-A/D shall have the definition found in section 71-5102;

(9) First responder service shall mean any privately owned or publicly owned organizational entity the members of which are trained at the first responder level or higher to provide prehospital emergency care to patients at the scene of an emergency;

(10) First responder-A/D service shall have the definition found in section 71-5102;

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

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

(13) Primary response service area shall mean the primary geographic area which a first responder service serves; and

(14) Semiautomatic defibrillator shall have the definition found in section 71-5102.

Sec. 86. Section 71-7304, Revised Statutes Supplement, 1994, is amended to read:

71-7304. (1) Application for a certification as a first responder shall be made upon forms prepared by the department and shall contain the applicant's legal name, address, date of birth, and social security number and the licensed ambulance service and first responder service of which the

applicant is a member.

(2) In order to qualify for a certification as a first responder, an applicant shall:

(a) Have a current cardiopulmonary resuscitation certification issued by an organization approved by the department;

(b)(i) Successfully pass the Nebraska Forty Hour Emergency Medical Services-First Responder Course developed by the department based on the curriculum of the United States Department of Transportation Forty Hour Emergency Medical Services-First Responder Course conducted by an institution or person reviewed by the department and approved by the board;

(ii) Hold a current certificate of successful completion of the United States Department of Transportation Forty Hour Emergency Medical Services-First Responder Course conducted in a state other than Nebraska which required passage of a written and practical examination; or

(iii) Successfully pass an emergency medical ~~technician~~ ambulance technician course conducted by an organization reviewed by the department and approved by the board; and

(c) Be at least eighteen years of age.

(3) The certificate shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year after issuance. A first responder who requests recertification shall present (a) evidence of completion of thirty hours of continuing education in a combination of the skills, knowledge, or clinical experience which are the subject matters of the Nebraska Forty Hour Emergency Medical Services-First Responder Course or (b) certification of such continuing education by a local training officer, rescue captain, fire chief, ambulance chief, head of the first responder service, or municipal official, and (c) maintenance of current cardiopulmonary certification issued by an organization approved by the department. The department shall notify by letter each first responder and the first responder service of record of such first responder at least ninety days prior to the expiration of the certificate.

(4) The department shall within thirty days after receipt of an application for a certificate under this section make such investigation of the applicant as it deems necessary and, if such applicant is deemed competent pursuant to the requirements of this section, shall issue such certificate.

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

Sec. 87. Section 81-642, Reissue Revised Statutes of Nebraska, is amended to read:

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~~ shall 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 81-663 to 81-675.

Sec. 88. Section 81-646, Reissue Revised Statutes of Nebraska, is amended to read:

81-646. (1) On the request of the department or its authorized representative, each medical doctor, osteopathic physician, or dentist within the state ~~may~~ shall produce and make available to the department or its authorized representative, in a manner prescribed by the department, data which the department determines is necessary and appropriate from each medical record of cancer under the doctor's, osteopathic physician's, or dentist's custody or control.

(2) Each hospital within the state shall make available to the department or its authorized representative on presentation of proper identification of the department's representative, a list of names of cancer patients, corresponding medical records numbers, and medical records which

document the diagnosis and treatment of cancer on the premises of the hospital, office, or clinic during normal working hours, for the purpose of recording specific data about a patient's cancer.

(3) Each hospital that initially diagnoses cancer made reportable by the department for more than fifty patients during a calendar year shall, for the next calendar year, at the request of the department or its authorized representative, produce and make available, in a manner prescribed by the department, data which the department determines is necessary and appropriate from each medical record of cancer under the control of such the hospital. Any hospital with fewer than fifty initial diagnoses of cancer may report in the same manner.

(4) The data produced pursuant to subsection (1) of this section shall include, but not be limited to, the:

- (a) Patient's name, address, and available social security number;
- (b) Patient's hospital accession number;
- (c) Patient's birthdate, race, and sex;
- (d) Date of diagnosis;
- (e) Primary site of cancer;
- (f) Stage of the disease, including in situ, localized, regional, distant, or metastasis;

(g) Basis of staging, including clinical diagnostic, surgical evaluative, postsurgical treatment pathological, or retreatment; and
(h) Diagnostic confirmation.

Sec. 89. Section 81-2266, Reissue Revised Statutes of Nebraska, is amended to read:

81-2266. The Department on Aging, through its care management units, shall coordinate with the Department of Social Services and any other appropriate state agencies to establish a pilot project to prevent premature institutionalization of nursing facility medicaid-eligible applicants sixty-five years of age and older through preadmission screening. The Department on Aging shall examine the preadmission screening process utilized by the Department of Public Institutions and shall utilize such process as is appropriate. The agencies shall determine an urban area and a rural area for demonstration of the project. The pilot project shall be targeted toward areas of Nebraska with high nursing facility utilization. The Department of Social Services shall use the preadmission screening services of the pilot project in the demonstration areas.

This section shall terminate on June 30, 1995 1997.

Sec. 90. Section 81-2269, Reissue Revised Statutes of Nebraska, is amended to read:

81-2269. (1) The Department on Aging, through its care management units, shall coordinate with the Department of Social Services, the Department of Public Institutions, and other appropriate state agencies to establish a statewide project to prevent premature institutionalization of nursing facility medicaid-eligible applicants sixty-five years of age and older through preadmission screening. Such screenings shall be required for all applicants who will be eligible for medicaid within one year of application. In any case in which a determination has not been made within forty-eight hours, the nursing facility applicant shall be deemed appropriate for nursing home admission until such time as preadmission screening is completed, notwithstanding that a preadmission screening has not been done. The Department of Social Services shall use the preadmission screening services of the project.

(2) Subsection (1) of this section becomes operative on July 1, 1997.

Sec. 91. Section 83-211.02, Reissue Revised Statutes of Nebraska, is amended to read:

83-211.02. (1) There is hereby created an advisory committee The rehabilitation advisory council to the Department of Public Institutions is created to aid in providing services for the visually impaired. The committee council shall consist of ~~one fifteen~~ members, who shall be appointed by the Governor. Three five members shall be appointed for a term terms of one year, three five members for a term terms of two years, and three five members for a term terms of three years with the Governor designating the expiration of the term of office of each member of the committee council when first appointed. Thereafter their successors shall serve for a term terms of three years. In appointing members to the committee council, the Governor shall give due consideration to the geographical distribution of visually impaired persons within the state with a view to apportioning membership on the committee council in accordance with such distribution. The Governor shall also seek to give fair representation to organizations of blind and visually impaired persons. At least two-thirds appoint a vocational rehabilitation counselor

who, if employed by the Director of Rehabilitation Services for the Visually Impaired, shall be a nonvoting member, and at least one representative from each of the following: (a) The statewide Independent Living Council; (b) a parent training and information center; (c) the Client Assistance Program; (d) a community rehabilitation program service provider; (e) business, industry, or labor; (f) advocacy groups of blind and visually impaired persons to accord fair representation to the several organizations of the blind and visually impaired; and (g) applicants or recipients of vocational rehabilitation services at the time of appointment or at some time prior to being appointed. A majority of the members of the committee council shall be blind or visually impaired persons, and the remainder may be sighted persons who are knowledgeable concerning the affairs of the blind. No employee of any governmental agency or instrumentality shall be eligible to be appointed to the committee. In case of vacancy in the office of any member, his or her successor shall be appointed for the unexpired term.

(2) Members of the committee council who are not state employees shall receive twenty three dollars per day for each day engaged in the duties of the committee, and council. Members of the council shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177, for state employees.

(3) The committee council shall hold four meetings a year during the months of August, November, February, and May at such times and places as determined by the council. A chairperson and such other officers as may be necessary shall be elected by the committee council by majority vote for terms of office as determined by the council. New officers shall be elected at the first meeting of each calendar year.

(4) The individual designated by the Department of Public Institutions as the Director of Rehabilitation Services for the Visually Impaired shall serve as executive secretary for the committee an ex officio member of the council in a nonvoting capacity. The director shall furnish any data required by the committee council in carrying out its functions, subject to the limitations prescribed by law relating to the confidentiality of information with respect to individual clients.

(5) The council shall:

(a) Review and analyze the rehabilitation services provided by the Director of Rehabilitation Services for the Visually Impaired and provide advice to the director, particularly with respect to eligibility for and the extent, scope, and effectiveness of services and the impact of other agencies on the success of clients;

(b) Advise the Director of Rehabilitation Services for the Visually Impaired on the preparation of applications, the state plan, the strategic plan, reports, needs assessments, and evaluations required by federal law;

(c) Review and analyze the effectiveness of and consumer satisfaction with other public and private agencies providing services to blind or visually impaired persons;

(d) Prepare and submit an annual report to the Director of Public Institutions, the Governor, and the Commissioner of Rehabilitation Services on the status of vocational rehabilitation services operated by the Director of Rehabilitation Services for the Visually Impaired. This report shall also be made available to the public;

(e) Coordinate with other councils in the state that serve disabled persons;

(f) Advise the Director of Rehabilitation Services for the Visually Impaired and provide for coordination and the establishment of working relations with the statewide Independent Living Council and centers for independent living; and

(g) Perform other duties that the council determines to be appropriate.

(2) It shall be the duty of the advisory committee to: (a) Study all of the rehabilitation programs provided by the agency for the blind and visually impaired; (b) receive, investigate, and hear complaints from blind and visually impaired persons and organizations of the blind; (c) make recommendations to the Division of Rehabilitation Services for the Visually Impaired; (d) hold meetings in different geographic areas of the state to maximize blind or visually impaired consumer participation; and (e) make a report to the Director of Public Institutions each year on its findings and recommendations.

Sec. 92. Sections 9 to 18, 20 to 30, and 94 of this act become operative on September 1, 1995. Sections 91 and 93 of this act become operative on October 1, 1995. The other sections of this act become operative on their effective date.

Sec. 93. Original section 83-211.02, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 94. Original sections 33-150, 71-1,285, 71-1,286, 71-1,287 to 71-1,292, and 71-1,294, Reissue Revised Statutes of Nebraska, and sections 71-101, 71-102, 71-107, 71-110, 71-112, 71-113, 71-114, 71-131, 71-162, and 71-1,293, Revised Statutes Supplement, 1994, are repealed.

Sec. 95. Original sections 2-3910, 21-2202, 28-411, 28-414, 28-415, 71-3502, 71-3505, 71-3508, 71-3515.01, 71-3515.02, 71-5133, 71-6001 to 71-6007, 71-6310, 71-6310.01, 71-6311, 71-6314, 71-6317, 81-642, 81-646, 81-2266, and 81-2269, Reissue Revised Statutes of Nebraska, and sections 21-2209, 21-2216, 28-405, 71-1,206.18, 71-1,314, 71-612, 71-617.15, 71-627, 71-628, 71-634, 71-2417, 71-3501, 71-3503, 71-3507, 71-5102, 71-5108, 71-5109 to 71-5111, 71-5127, 71-5142, 71-5147, 71-5152, 71-5157, 71-5514.01, 71-6301, 71-6303, 71-6801, 71-7001, 71-7004, 71-7012, 71-7303, and 71-7304, Revised Statutes Supplement, 1994, are repealed.

Sec. 96. The following sections are outright repealed: Sections 71-6309.01 and 71-6315, Reissue Revised Statutes of Nebraska.

Sec. 97. Since an emergency exists, this act takes effect when passed and approved according to law.