LEGISLATIVE BILL 900

Approved by the Governor April 15, 1994

Introduced by Day, 19

AN ACT relating to drug dispensing; to amend section 71-1,143, Reissue Revised Statutes of Nebraska, 1943, and sections 71-101, 71-1,142, 71-1,147, 71-1,147.10, 71-1,147.13, 71-1,147.33, and 71-1,147.36, Revised Statutes Supplement, 1993; to define and redefine terms; to require certain public health clinics to have drug dispensing permits; to provide for fees and costs; to provide enforcement and disciplinary procedures and penalties; to provide for notice and a hearing; to provide powers and duties for the Director of Health and the Attorney General; to provide for a formulary; to require consultant pharmacists at certain public health clinics; to provide for limitations on liability; to provide policies and conditions for the dispensing of drugs and devices by public health clinics; to provide qualifications for public health clinic workers; to provide training and proficiency demonstration requirements; to create and provide powers and duties for the Formulary Advisory Committee; to harmonize provisions; and to repeal the original sections.

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

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

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1301 to 71-1306, 71-1326 to 71-1354, and 71-2801 to 71-2822 and sections 9 to 31 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. 2. That section 71-1,142, Revised Statutes Supplement, 1993, be amended to read as follows:

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

(1) Practice of pharmacy shall mean (a) the interpretation and evaluation of prescription orders, (b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices, (c) the participation in drug selection, drug utilization review, drug source selection, and drug administration, (d) the proper and safe

storage of drugs and devices and the maintenance of proper records therefor, (e) patient counseling, (f) the provision of pharmaceutical care, and (g) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. The active practice of pharmacy shall mean the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

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

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

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

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

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

(7) Department shall mean the Department of Health;

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

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

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

(11) Drug dispensing permit shall mean a permit issued by the department upon the recommendation of the board to a public health clinic which allows for the dispensing of drugs and devices in the formulary approved by the Director of Health pursuant to section 18 of this act;

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

~~(12)~~ (13) Labeling shall mean the process of preparing and affixing a label to any drug container or device container, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation;

~~(13)~~ (14) Pharmaceutical care shall mean the provision of drug therapy for the purpose of achieving therapeutic outcomes that improve a patient's quality of life. Such outcomes shall include (a) the cure of disease, (b) the elimination or reduction of a patient's symptomatology, (c) the arrest or slowing of a disease process, or (d) the prevention of a disease or symptomatology. Pharmaceutical care shall include the process through which the pharmacist works in concert with the patient and his or her caregiver, physician, or other professionals in designing, implementing, and monitoring a therapeutic plan that will produce specific therapeutic outcomes for the patient;

~~(14)~~ (15) Pharmacist shall mean any person who (a) is licensed by the State of Nebraska to practice pharmacy or (b) is primarily responsible for providing pharmaceutical care as defined in subdivision ~~(13)~~ (14) of this section;

~~(15)~~ (16) Pharmacy shall mean (a) any establishment, place, or location advertised as a pharmacy, drug store, hospital pharmacy, dispensary, apothecary, or any combination of such titles or any establishment where the practice of pharmacy is carried on except as exempted in section 71-1,143 and (b) any establishment, place, or location used as a pick-up point or drop point, including kiosks, for prescriptions to be filled or where prescribed drugs or devices are made ready for delivery to the patient;

~~(16)~~ (17) Drugs, medicines, and medicinal substances shall mean (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National

Formulary, or any supplement to any of them, (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans or animals, (c) articles, except food, intended to affect the structure or any function of the body of a human or an animal, (d) articles intended for use as a component of any articles specified in subdivision (a), (b), or (c) of this subdivision, except any device or its components, parts, or accessories, and (e) prescription drugs as defined in subdivision ~~(21)~~ (22) of this section;

~~(17)~~ (18) Medical practitioner shall mean any licensed physician, surgeon, podiatrist, dentist, or other person licensed to write prescriptions intended for treatment or prevention of disease or to affect body function in humans or animals;

~~(18)~~ (19) Patient counseling shall mean the verbal communication by a pharmacist, in a manner reflecting dignity and the right of the patient to a reasonable degree of privacy, of information to the patient or caregiver in order to improve therapeutic outcomes by maximizing proper use of prescribed drugs and devices and shall also include the duties set out in subsection (2) of section 71-1,147.35;

~~(19)~~ (20) Pharmacist in charge shall mean a pharmacist licensed by the State of Nebraska to practice pharmacy who has been designated on a pharmacy permit or designated by a public or private hospital licensed by the ~~Department of Health~~ department as being responsible for the practice of pharmacy in the pharmacy for which such permit is issued or such hospital's inpatient pharmacy and who shall work within the physical confines of such pharmacy for a majority of the hours per week that the pharmacy is open for business averaged over a twelve-month period or thirty hours per week, whichever is less;

~~(20)~~ (21) Pharmacy intern shall mean (a) a student currently enrolled in an accredited college or school of pharmacy or (b) a graduate of an accredited college or school of pharmacy serving his or her internship, such internship to expire not later than fifteen months after the date of graduation or at the time of professional licensure, whichever comes first. Such pharmacy intern may compound and dispense drugs or devices and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist who shall either be the person to whom the pharmacy permit is issued or in the actual employ of the permittee;

~~(21)~~ (22) Prescription drug or legend drug shall mean (a) a drug which under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) Caution: Federal law prohibits dispensing without prescription; or (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian or (b) a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by medical practitioners only;

~~(22)~~ (23) Prescription order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug or device;

~~(23)~~ (24) Nonprescription drugs shall mean nonnarcotic medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of this state and the federal government;

(25) Public health clinic worker shall mean a person in a public health clinic operating with a drug dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task of dispensing authorized refills of oral contraceptives;

(26) Public health clinic shall mean the department, any county, city-county, or multicounty health department, or any private not-for-profit family planning clinic licensed as a health clinic as defined in section 71-2017.01;

~~(24)~~ (27) Supervision shall mean the immediate personal guidance and direction by the licensed pharmacist on duty in the facility of the performance by supportive pharmacy personnel of authorized activities or functions subject to verification by such pharmacist, except that when supportive pharmacy personnel perform authorized activities or functions to assist a pharmacist on duty in the facility when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a certified physician assistant to patients or residents of a health care facility licensed pursuant to sections 71-2017 to 71-2029, the activities or functions of such supportive pharmacy personnel shall only be subject to verification by a pharmacist on duty in the facility;

~~(25)~~ (28) Supportive pharmacy personnel shall mean individuals at least eighteen years of age who are high school graduates or officially recognized by the State Department of Education as possessing the equivalent

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

~~(26)~~ (29) Verification shall mean the confirmation by the supervising pharmacist of the accuracy and completeness of the acts, tasks, or functions undertaken by supportive pharmacy personnel to assist the pharmacist in the practice of pharmacy. Verification by the supervising pharmacist shall be documented prior to the time when the drug or device is dispensed; and

~~(27)~~ (30) Written control procedures and guidelines shall mean the document prepared by an employing pharmacy and approved by the board which specifies the manner in which the qualifications of supportive pharmacy personnel employed by the pharmacy are determined, the manner in which the training of such personnel is conducted and their basic level of competency is confirmed, the manner in which supervision is provided, the manner in which the functions of supportive pharmacy personnel are verified, and a protocol governing the use of supportive pharmacy personnel and the functions which they may perform.

Sec. 3. That section 71-1,143, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,143. Sections 71-1,142 and 71-1,147 shall not be construed to include persons who:

(1) Sell, offer, or expose for sale~~,~~ completely denatured alcohol or concentrated lye, insecticides, and fungicides in original packages;

(2) Are medical practitioners who dispense drugs and medicines as an incident to the practice of their profession but shall not exempt such a practitioner, other than a licensed veterinarian who regularly engages in dispensing such drugs or medicinal substances to his or her patients for which such patients are charged either separately or together with charges for other professional services, from obtaining a pharmacy permit and complying with all record-keeping, dispensing, labeling, and other requirements of the practice of pharmacy as set forth in this section and sections 71-1,142, 71-1,145 to 71-1,147.01, 71-1,147.03, 71-1,147.07 to 71-1,147.10, 71-1,147.15, and 71-1,147.16 or by federal and state laws as they pertain to the regulation of the practice of pharmacy. Such ~~,~~ ~~such~~ regular and routine dispensing shall not be considered to be incident to practice, nor may such a practitioner delegate such dispensing to any other person;

(3) Sell, offer, or expose for sale~~,~~ nonprescription drugs~~,~~ or proprietary medicines, the sale of which is not in itself a violation of the law relating to intoxicating liquors;

(4) Are known as medical representatives, detail persons, or by some name of like import, but only to the extent of permitting the relating of pharmaceutical information to health care practitioners; ~~and~~

(5) Are licensed veterinarians; and

(6) Are authorized by sections 9 to 31 of this act to dispense authorized refills of oral contraceptives in a public health clinic operating with a drug dispensing permit.

Sec. 4. That section 71-1,147, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,147. (1) Except as provided in section 71-1,147.33 and section 23 of this act, no person other than a licensed pharmacist or a pharmacy intern shall, as described in sections 71-1,142, 71-1,143, and 71-1,147 to 71-1,147.14, compound and dispense drugs or devices and fill the prescription of a medical practitioner.

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

(3) Except as provided in section 71-1,147.33 and section 23 of this act, it shall be unlawful for any person to permit or direct a person who is

not a pharmacy intern or licensed pharmacist to compound and dispense drugs or devices or fill the prescription of a medical practitioner.

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

(5) For purposes of this section, nothing in this section shall be construed to prohibit any registered nurse employed by a hospital from administering single doses of drugs from original drug containers or properly labeled prepackaged drug containers to any patient of the hospital upon the order or prescription of a medical practitioner or to prohibit such registered nurse employed by a hospital from procuring the original drug container or properly labeled prepackaged drug container for the purpose of single-dose drug administration to any patient of the hospital upon the order or prescription of a medical practitioner.

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

Sec. 5. That section 71-1,147.10, Revised Statutes Supplement, 1993, be amended to read as follows:

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

(a) Conviction of any crime involving moral turpitude;

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

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

(d) The compounding and dispensing of drugs or devices or the filling of a prescription by a person other than a licensed pharmacist or by an intern in pharmacy, without the presence of and the immediate personal supervision of a licensed pharmacist except as provided in section 71-1,147.33 and section 23 of this act;

(e) A conviction of a violation of sections 71-1,142 to 71-1,147.38 and sections 9 to 31 of this act or of a felony or, if a natural person, the revocation or suspension of a license to practice pharmacy in this state;

(f) Unprofessional conduct which shall include, but not be limited to:

(i) Misrepresentation or fraud in the conduct of a pharmacy or hospital pharmacy;

(ii) ~~aiding~~ Aiding or abetting an unlicensed person to practice pharmacy;

(iii) ~~the~~ The dispensing over the counter without a prescription of a drug or device which under state or federal law or regulation is prohibited from being dispensed without a prescription or the renewal of such a prescription without the authorization of the prescriber;

(iv) ~~the~~ The dispensing of a different drug or device in place of the drug or device ordered or prescribed without the express permission of the person ordering or prescribing the same;

(v) ~~any~~ Any fraudulent act in drug product selection whereby the purchaser is charged for the prescribed brand rather than the selected product which is deemed to be chemically and therapeutically equivalent;

(vi) ~~failure~~ Failure to account for significant, substantial shortages or overages of controlled substances; or

(vii) ~~use~~ Use of supportive pharmacy personnel in violation of section 71-1,147.33;

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

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

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

(3) If the department determines to deny, revoke, suspend, or refuse

renewal of the license of a hospital pursuant to this section, the procedures for such action in sections 71-2023 to 71-2029 shall be followed.

(4) If the department determines to deny an application for a permit to or to revoke, suspend, or refuse renewal of a permit to conduct a pharmacy, it shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, revocation, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing. The applicant or permittee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or permittee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to section 71-1,147.12. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations adopted and promulgated by the department.

(5) The proceeding shall be summary in its nature and triable as an equity action. Affidavits may be received in evidence in the discretion of the Director of Health. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers:

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

(b) Suspend judgment;

(c) Place the permittee on probation;

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

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

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

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

(h) Dismiss the action.

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

(7) Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days after receipt remit any collected civil penalty to the State Treasurer for credit to the permanent school fund.

(8) The Attorney General, upon the recommendation of the board, shall initiate criminal proceedings pursuant to section 71-167 against supportive pharmacy personnel or public health clinic workers who knowingly perform tasks or functions which require the expertise or professional judgment of a pharmacist. When appropriate, the Attorney General, upon the recommendation of the board, shall initiate corresponding criminal charges

against pharmacists, pharmacy owners, or other persons who knowingly permit supportive pharmacy personnel or public health clinic workers to perform professional duties which require the expertise or professional judgment of a pharmacist.

Sec. 6. That section 71-1,147.13, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,147.13. Any person who does or commits any of the acts or things prohibited by sections 71-1,142, 71-1,143, 71-1,147 to 71-1,147.14, and 71-1,147.34 to 71-1,147.38 and sections 9 to 31 of this act or otherwise violates any of the provisions thereof shall be guilty of a Class II misdemeanor.

Sec. 7. That section 71-1,147.33, Revised Statutes Supplement, 1993, be amended to read as follows:

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

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

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

(b) Providing patient counseling to a patient or caregiver regarding drugs or devices, either before or after they have been dispensed, or regarding any medical information contained in a patient's record maintained pursuant to sections 71-1,147.35 and 71-1,147.36;

(c) Performing any evaluation or necessary clarification of a prescription or performing any functions other than strictly clerical functions involving the interpretation of a prescription prior to dispensing;

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

(e) Interpreting or evaluating the data contained in a patient's record maintained pursuant to section 71-1,147.35;

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

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

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

(3) The pharmacy employing supportive pharmacy personnel shall be responsible for the supervision, onsite training, and performance of such personnel.

(4) The pharmacist in charge shall be responsible for the practice of pharmacy and the establishment of written control procedures and guidelines governing the qualifications, onsite training, functions, supervision, and verification of the performance of supportive pharmacy personnel. The training of supportive pharmacy personnel shall include instruction, onsite in the facility where such personnel are to be employed, in the duties and responsibilities of such personnel under state law and in the nature of the functions which they may and may not perform. The supervision of such personnel at the place of employment shall be performed by the licensed pharmacist who is on duty in the facility with the supportive pharmacy personnel as provided in subsection (5) of this section.

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

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

(i) Basic pharmaceutical nomenclature;
(ii) Metric system measures, both liquid and solid;
(iii) The meaning and use of Roman numerals;
(iv) Latin abbreviations used for dosages and directions to patients;
(v) Basic medical terms, including terms relating to ailments, diseases, or infirmities;
(vi) Instruction on the use and operation of automated dispensing and record-keeping systems if used by the employing pharmacy;
(vii) Discussion of applicable statutes, rules, and regulations governing the preparation, compounding, dispensing, and distribution of drugs or devices, record keeping with regard to such functions, and the employment, use, and functions of supportive pharmacy personnel; and
(viii) Discussion of the contents of the written control procedures and guidelines.

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

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

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

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

(7) Hospitals that have been utilizing supportive pharmacy personnel prior to June 11, 1993, may continue to use such personnel after such date but shall submit to the board the written control procedures and guidelines governing such supportive pharmacy personnel. A hospital that commences using supportive pharmacy personnel as provided in the rules and regulations adopted and promulgated by the department pursuant to sections 71-1,142 to 71-1,147.38 on or after such date shall meet the requirements of such sections.

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

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

Sec. 8. That section 71-1,147.36, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,147.36. Information with regard to a patient maintained by a

pharmacist pursuant to sections 71-1,142 to 71-1,147.38 and sections 9 to 31 of this act shall be privileged and confidential and may be released only to (1) the patient or the caregiver of the patient or others authorized by the patient or his or her legal representative, (2) a physician treating the patient, (3) other physicians or pharmacists when, in the professional judgment of the pharmacist, such release is necessary to protect the patient's health or well-being, or (4) other persons or governmental agencies authorized by law to receive such information.

Sec. 9. All public health clinics which dispense legend drugs or devices shall either have a current permit to conduct a pharmacy or a current drug dispensing permit.

Separate drug dispensing permits shall be required for public health clinics maintained on separate premises even though operated under the same management. A separate drug dispensing permit shall not be required for an ancillary facility which offers intermittent services, which is staffed by personnel from the public health clinic site for which a drug dispensing permit has been issued, and at which no legend drugs or devices are stored.

Sec. 10. A public health clinic may apply to the department for a drug dispensing permit required by section 9 of this act. The application shall include the address of the clinic, the name and license number of the pharmacist who will assume the responsibilities of consultant pharmacist for the clinic as required by sections 20 and 21 of this act, and any other information required by the board.

Sec. 11. No fee shall be required for issuance of a drug dispensing permit.

The applicant shall pay an initial inspection fee and subsequent annual inspection fees in an amount determined by the Bureau of Examining Boards based upon the actual costs of the inspection but not less than fifty dollars nor more than three hundred dollars.

In addition, each permittee shall share equally in the actual cost of maintaining the Formulary Advisory Committee, which cost shall be billed annually to the permittees by the department.

All fees and costs collected by the department shall be remitted to the State Treasurer for credit to the Nebraska Pharmaceutical Fund.

Sec. 12. If a complaint is filed against a public health clinic or any staff member, public health clinic worker, volunteer, or consultant in association with work performed under a drug dispensing permit and if the complaint is found to be valid, the cost of investigating the complaint and any followup inspections shall be calculated by the board based upon the actual costs incurred and the cost shall be borne by the public health clinic. All costs collected by the department shall be remitted to the State Treasurer for credit to the Nebraska Pharmaceutical Fund. If the complaint is not found to be valid, the cost of the investigation shall be paid from the fund.

Sec. 13. The department may deny an application for a drug dispensing permit, revoke or suspend a permit, or refuse renewal of a permit on any of the following grounds:

(1) Conviction of any crime involving moral turpitude;

(2) Obtaining a permit by false representation or fraud;

(3) Operating a public health clinic without a consultant pharmacist responsible for the duties specified in sections 20 and 21 of this act;

(4) Failure to pass an initial or annual inspection;

(5) Failure to pay inspection costs;

(6) Failure to pay any fee required by section 11 of this act;

(7) Use of unauthorized persons in the dispensing or administration of drugs or devices;

(8) The compounding and dispensing of drugs or devices or the filling of a prescription by a person other than a licensed pharmacist or by an intern in pharmacy, without the presence of and the immediate personal supervision of a licensed pharmacist except as provided in section 71-1,147.33 or section 23 of this act;

(9) The dispensing of any drug or device not listed in the approved formulary or failure to provide patient information;

(10) A conviction of a violation of sections 71-1,142 to 71-1,147.38 and sections 9 to 31 of this act or of a felony or, if a natural person, the revocation or suspension of a drug dispensing permit;

(11) Unprofessional conduct which shall include, but not be limited to:

(a) Misrepresentation or fraud in the conduct of a public health clinic;

(b) Aiding or abetting an unlicensed person to practice pharmacy;

(c) The dispensing without a prescription of a drug or device which under state or federal law or regulation is prohibited from being dispensed

without a prescription or the renewal of such a prescription without the authorization of the prescriber;

(d) The dispensing of a different drug or device in place of the drug or device ordered or prescribed without the express permission of the person ordering or prescribing the same; or

(e) Any fraudulent act in drug product selection whereby the purchaser is charged for the prescribed brand rather than the selected product which is deemed to be chemically and therapeutically equivalent;

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

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

Sec. 14. (1) If the department determines to deny an application for a drug dispensing permit or to revoke, suspend, or refuse renewal of a permit, it shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, revocation, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing. The applicant or permittee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or permittee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to section 16 of this act.

(2) The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations adopted and promulgated by the department. The proceedings shall be summary in nature and triable as equity actions. Affidavits may be received in evidence in the discretion of the Director of Health. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party.

Sec. 15. (1) Upon the completion of any hearing pursuant to section 14 of this act, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers:

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

(b) Suspend judgment;

(c) Place the permittee on probation;

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

(e) Impose a civil penalty not to exceed ten thousand dollars. The amount of the civil penalty, if any, shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any;

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

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

(h) Dismiss the action.

(2) The permittee shall not dispense drugs or devices after a permit is revoked or during the time for which the permit is suspended. If a permit is suspended, the suspension shall be for a definite period of time to be fixed by the director. The permit shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If the permit is revoked, the revocation shall be permanent, except that at any time after the expiration of two years, application may be made for reinstatement by any permittee whose permit has been revoked. The application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board. The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application.

(3) Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days after receipt remit any collected civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 16. (1) A petition for the revocation or suspension of a drug dispensing permit may be filed by the Attorney General or by the county attorney in the county in which the permittee resides or is operating a public health clinic. The petition shall be filed with the board and shall be entitled In the Matter of the Revocation (or suspension) of the Permit of (name of permittee) to dispense drugs and devices. It shall state the charges against the permittee with reasonable definiteness. Upon approval of such petition by the board, it shall be forwarded to the department which shall make an order fixing a time and place for hearing thereon, which shall not be less than ten days nor more than thirty days thereafter. Notice of the filing of such petition and of the time and place of hearing shall be served upon the permittee at least ten days before such hearing.

(2) The notice of charges may be served by any sheriff or constable or by any person especially appointed by the department. The order of revocation or suspension of a permit shall be entered on record and the name of such permittee stricken from the roster of permittees, and the permittee shall not engage in the dispensing of drugs and devices after revocation of the permit or during the time for which it is suspended.

(3) Any permittee shall have the right of appeal from an order of the department denying, revoking, suspending, or refusing renewal of a drug dispensing permit. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 17. When appropriate, the Attorney General, upon the recommendation of the board, shall initiate criminal charges against pharmacists, pharmacy owners, or other persons who knowingly permit public health clinic workers to perform professional duties which require the expertise or professional judgment of a pharmacist.

Sec. 18. Upon the recommendation of the board, which shall be based on the recommendations of the Formulary Advisory Committee, the Director of Health shall approve the formulary to be used by public health clinics operating with a drug dispensing permit.

The formulary shall consist of a list of drugs and devices for contraception, sexually transmitted diseases, and vaginal infections which may be dispensed and stored by public health clinics operating with a drug dispensing permit, patient instruction requirements which shall include directions on the use of drugs and devices, potential side effects and drug interactions, criteria for contacting the on-call pharmacist, and accompanying written patient information.

In no event shall the director approve for inclusion in the formulary any drug or device not approved by the committee or exclude any of the provisions for patient instruction approved by the board.

Drugs and devices with the following characteristics shall not be eligible to be included in the formulary:

(1) Controlled substances;

(2) Drugs with significant dietary interactions;

(3) Drugs with significant drug-drug interactions; and

(4) Drugs or devices with complex counseling profiles.

Sec. 19. Each public health clinic operating with a drug dispensing permit shall have a copy of Volumes I and II of the United States Pharmacopeia-Drug Information which contains all drugs listed in the formulary, one copy of a medical dictionary, and at least one copy of each of the latest revisions of all state laws governing or applicable to the practice of pharmacy and drug dispensing activities in public health clinics. The clinic shall also display the phone number of the Mid-Plains Poison Control Center in a conspicuous place.

Sec. 20. All public health clinics which dispense legend drugs and devices pursuant to a drug dispensing permit shall have an actively practicing Nebraska-licensed pharmacist listed as the consultant pharmacist on the permit.

The consultant pharmacist shall be physically in the public health clinic at least once every thirty days and shall be responsible for the security, environment, inventory, and record keeping of all drugs and devices received, stored, or dispensed by the public health clinic.

The consultant pharmacist shall conduct and document monthly inspections of inventory, record keeping, storage, security, dispensing, and

labeling procedures of all drugs and devices.

Sec. 21. The consultant pharmacist listed on a drug dispensing permit shall approve and maintain a policy and procedure manual governing the storage, control, distribution, and dispensing of drugs and devices within the public health clinic. The policy and procedure manual shall include, but not be limited to, directions for and documentation of the following:

(1) Consultant pharmacist monthly inspection reports;

(2) Labeling;

(3) Storage and security of drugs and devices;

(4) Proper patient instruction;

(5) Formulary;

(6) Library resources;

(7) Record keeping, to include the medical chart;

(8) Drug recall procedures;

(9) Policies for licensed or certified health care staff; and

(10) Policies for public health clinic workers.

The consultant pharmacist shall approve, with documentation, supplemental information and instructions regarding approved formulary drugs and devices dispensed to patients.

The consultant pharmacist shall approve, with documentation, the proficiency of public health clinic workers at the public health clinic for the dispensing of authorized refills of oral contraceptives at least annually. Documentation of proficiency shall be maintained in the employee's personnel file and the policy and procedure manual.

Sec. 22. The consultant pharmacist or the on-call pharmacist for the public health clinic operating with a drug dispensing permit shall not be held liable for acts or omissions on the part of a public health clinic worker or of licensed or certified health care staff. The public health clinic for which a public health clinic worker is working shall be liable for acts or omissions on the part of the public health clinic worker.

Sec. 23. Under a drug dispensing permit, approved formulary drugs and devices may be dispensed by a public health clinic worker or a health care professional licensed in Nebraska to practice medicine and surgery or licensed or certified in Nebraska as a registered nurse, licensed practical nurse, or physician assistant without the onsite services of a pharmacist if:

(1) The initial dispensing of all prescriptions for approved formulary drugs and devices is conducted by a health care professional licensed in Nebraska to practice medicine and surgery or pharmacy or licensed or certified in Nebraska as a registered nurse, licensed practical nurse, or physician assistant;

(2) The drug or device is dispensed pursuant to a prescription written by a medical practitioner;

(3) The only prescriptions to be refilled under the drug dispensing permit are prescriptions for oral contraceptives;

(4) Prescriptions are accompanied by patient instructions and written information approved by the Director of Health;

(5) The dispensing of authorized refills of oral contraceptives is done by a licensed or certified health care professional listed in subdivision (1) of this section or by a public health clinic worker who meets the requirements provided in sections 24 to 26 of this act;

(6) All drugs or devices dispensed from a drug dispensing permit site are prepackaged by the manufacturer or on site at the public health clinic by a pharmacist into the quantity to be prescribed and dispensed at the public health clinic;

(7) All drugs and devices stored, received, or dispensed by public health clinics are properly labeled at all times. Properly labeled shall mean that the label affixed to the container prior to dispensing contains the following information:

(a) The name of the manufacturer;

(b) The lot number and expiration date from the manufacturer or, if prepackaged by a pharmacist, the lot number and calculated expiration date. Calculated expiration date shall mean an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging;

(c) Directions for patient use;

(d) The quantity of drug inside;

(e) The name, strength, and dosage form of the drug; and

(f) Auxiliary labels as needed for proper drug compliance;

(8) The following additional information is added to the label of each container when the drug or device is dispensed:

(a) The patient's name;

(b) The name of the prescribing health care professional;
(c) The prescription number; and
(d) The date dispensed;
(9) The only drugs and devices allowed to be dispensed or stored by public health clinics appear on the formulary approved pursuant to section 18 of this act; and
(10) At any time that dispensing is occurring from a public health clinic, the consultant pharmacist for the public health clinic or any other actively practicing pharmacist licensed to practice pharmacy in Nebraska is available, either in person or by telephone, to answer questions from clients, staff, public health clinic workers, or volunteers. This availability shall be confirmed and documented at the beginning of each day that dispensing will occur. The consultant pharmacist or practicing pharmacist shall inform the public health clinic if he or she will not be available during the time that his or her availability is required. If a pharmacist is unavailable, no dispensing shall occur.

Sec. 24. No person shall act as a public health clinic worker unless the person:
(1) Is at least eighteen years of age;
(2) Has earned a high school diploma or the equivalent;
(3) Has completed approved training as provided in section 25 of this act; and
(4) Has demonstrated proficiency as provided in section 26 of this act.

Sec. 25. A pharmacist shall conduct the training of public health clinic workers. The training shall be approved according to the standards determined by the board upon the recommendation of the Formulary Advisory Committee. The training shall consist of at least six hours of classroom instruction, including, but not limited to, the following:
(1) Procedures for dispensing authorized refills of oral contraceptives;
(2) Federal and state laws regarding drug dispensing;
(3) Proper labeling of oral contraceptives;
(4) Proper record keeping of refilled prescriptions;
(5) The actions, drug interactions, and effects of oral contraceptives;
(6) Use of Volumes I and II of the United States Pharmacopeia-Drug Information;
(7) Proper pharmacist referral;
(8) Procedures for reaching the on-call pharmacist;
(9) Storage and security of approved formulary drugs and devices; and
(10) Patient information.

The public health clinic and the consultant pharmacist shall be responsible to assure that approved training has occurred and is documented. Documentation of training shall be maintained in the employee's personnel file and in the policy and procedure manual.

Sec. 26. The public health clinic worker shall demonstrate proficiency, according to the standards determined by the department, to the consultant pharmacist upon completion of training. Documentation of proficiency shall be maintained in the employee's personnel file and in the policy and procedure manual.

The public health clinic worker shall be supervised with documentation by one of the licensed or certified health care professionals specified in subdivision (1) of section 23 of this act for the first month that dispensing of authorized refills of oral contraceptives occurs. The public health clinic for which a public health clinic worker is working shall be liable for acts or omissions on the part of the public health clinic worker.

Following initial training and proficiency demonstration, the public health clinic worker shall demonstrate proficiency to the consultant pharmacist at least annually or as requested by the consultant pharmacist.

The public health clinic worker shall attend a two-hour inservice program regarding oral contraceptives taught by a pharmacist at least once a year, and more often as necessary, with documentation of attendance maintained in the employee's personnel file and in the policy and procedure manual.

Sec. 27. Each person licensed to practice medicine and surgery and each person certified as a physician assistant, nurse practitioner, or nurse midwife who works in a public health clinic operating with a drug dispensing permit shall have two hours of training provided by a licensed, actively practicing pharmacist in the following:
(1) Procedures for dispensing initial prescriptions and authorized

refills of oral contraceptives;

(2) Procedures for dispensing approved drugs and devices;

(3) Federal and state laws regarding drug dispensing;

(4) Proper labeling of oral contraceptives and approved drugs and devices;

(5) Proper record keeping of initial and refilled prescriptions;

(6) Use of Volumes I and II of the United States Pharmacopeia-Drug Information;

(7) Proper pharmacist referral;

(8) Procedures for reaching the on-call pharmacist;

(9) Storage and security of approved formulary drugs and devices; and

(10) Patient information.

Sec. 28. Each person licensed as a registered nurse or licensed practical nurse who is not certified as a nurse practitioner or nurse midwife and who works in a public health clinic operating with a drug dispensing permit shall have eight hours of training provided by a licensed, actively practicing pharmacist in the following:

(1) Procedures for dispensing initial prescriptions and authorized refills of oral contraceptives;

(2) Procedures for dispensing approved drugs and devices;

(3) Federal and state laws regarding drug dispensing;

(4) Proper labeling of oral contraceptives and approved drugs and devices;

(5) Proper record keeping of initial and refilled prescriptions;

(6) The actions, drug interactions, and effects of oral contraceptives and approved drugs and devices;

(7) Use of Volumes I and II of the United States Pharmacopeia-Drug Information;

(8) Proper pharmacist referral;

(9) Procedures for reaching the on-call pharmacist;

(10) Storage and security of approved formulary drugs and devices; and

(11) Patient information.

Sec. 29. The Formulary Advisory Committee is hereby created. The committee shall consist of eight members as follows:

(1) Two members designated by the board;

(2) Two members who are employees of the department with knowledge of and interest in reproductive health and sexually transmitted diseases;

(3) Two members who are licensed to practice pharmacy in this state and who are selected by the Director of Health. The Nebraska Pharmacists Association may submit to the director a list of five persons of recognized ability in the profession. If such a list is submitted, the director shall consider the names on such list and may appoint one or more of the persons so named. The director may appoint any qualified person even if such person is not named on the list submitted by the association; and

(4) Two members who are employees of public health clinics which are or will be operating with drug dispensing permits and who are selected by the director from names recommended by such public health clinics.

Initial designations and recommendations shall be made and submitted to the director within thirty days after the effective date of this act. Subsequent designations and recommendations shall be submitted in July prior to the third quarter meeting of the committee.

Members shall serve for terms of two years each beginning with the third quarter meeting, except that one-half of the initial members appointed to the committee, as designated by the director, shall serve for terms of three years each. Members may serve for consecutive terms as approved by the director. The director may remove a member of the committee for inefficiency, neglect of duty, or misconduct in office in the manner provided in section 13 of this act.

Sec. 30. The Formulary Advisory Committee shall be an advisory committee to the board and shall be considered a public body for purposes of sections 84-1408 to 84-1414.

The committee may meet quarterly and shall meet annually to consider the inclusion or removal of drugs and devices from the formulary to be used by public health clinics operating with a drug dispensing permit and to consider modifications to the patient instruction requirements. The committee shall recommend to the board the drugs and devices to be included, patient instruction requirements which shall include directions on the use of drugs and devices, potential side effects and drug interactions, criteria for contacting the on-call pharmacist, and accompanying written patient information, taking into consideration the requirements of section 18 of this

act.

The committee shall also recommend to the board standards for the training of public health care workers.

Sec. 31. To protect the health, safety, and welfare of the public, to ensure to the greatest extent possible the accurate, efficient, and safe practice of pharmacy, to ensure that prescription drugs and devices conform to the orders authorizing their dispensing or administration, and to implement sections 9 to 31 of this act, the department, upon the recommendation of the board, shall adopt and promulgate rules and regulations:

(1) For the enforcement of sections 9 to 31 of this act;

(2) For the initial and annual inspections of public health clinics and the calculation of the inspection and investigation fees;

(3) For the documentation of the services of the consultant pharmacist;

(4) For the documentation of the availability of an actively practicing pharmacist during all hours of dispensing;

(5) For the training and proficiency demonstration of public health clinic workers; and

(6) For the notification of the approved formulary drugs and devices for dispensing in public health clinics.

Sec. 32. That original section 71-1,143, Reissue Revised Statutes of Nebraska, 1943, and sections 71-101, 71-1,142, 71-1,147, 71-1,147.10, 71-1,147.13, 71-1,147.33, and 71-1,147.36, Revised Statutes Supplement, 1993, are repealed.