

## LEGISLATIVE BILL 1005

Approved by the Governor April 15, 2004

Introduced by Health and Human Services Committee: Jensen, 20, Chairperson;  
Byars, 30; Cunningham, 40; Erdman, 47; Johnson, 37; Maxwell, 9;  
Stuthman, 22

AN ACT relating to public health and welfare; to amend sections 68-1036.02, 71-101, 71-110.01, 71-162, 71-185.03, 71-190, 71-1,142, 71-1,143.01, 71-1,146, 71-1,147.33, 71-1,155, 71-341, 71-342, 71-356.04, 71-365.01, 71-368, 71-371, 71-385.01, 71-387, 71-389, 71-3,102, 71-3,105, 71-3,106.01, 71-3,137, 71-3,139 to 71-3,141, 71-3,145, 71-3,147, 71-3,150, 71-3,169, 71-3,177, 71-3,179, 71-401, 71-409, 71-428, 71-448, 71-460, 71-461, 71-501, 71-542, 71-604.05, 71-612, 71-617.05, 71-617.15, 71-627, 71-628, 71-634, 71-1626, 71-1628.04, 71-1628.08, 71-1636, 71-1903, 71-1908 to 71-1912, 71-1914 to 71-1917, 71-3601 to 71-3603, 71-3608 to 71-3614, 71-5301, 71-5651 to 71-5654, 71-5661 to 71-5663, 71-5665, 71-5666, 71-5668, 71-5707, 71-6038 to 71-6042, 71-6101, 71-6103, 71-6104, 71-6113, 71-6115, 71-6721, 71-6735, and 71-8611, Reissue Revised Statutes of Nebraska, sections 28-414, 43-107, 43-3344, and 43-3346, Revised Statutes Supplement, 2002, and sections 13-518, 29-2264, 81-3201, and 84-304, Revised Statutes Supplement, 2003; to change and eliminate provisions relating to controlled substances, adoption, child support, medical assistance, dentistry, veterinary technician students, pharmacy, electrology, critical access hospitals, respite care services, assisted-living facilities, birth and death certificates, local public health departments, foster care, child care programs, tuberculosis, drinking water, rural health practice incentives, smoking prohibitions, nursing homes, occupational therapy, and blind vendors; to create a fund; to provide a penalty; to delete obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 71-3,138.01, 71-463, 71-616.05, 71-617.14, 71-6014, and 71-6015, Reissue Revised Statutes of Nebraska, and sections 43-3342.07 and 43-3343, Revised Statutes Supplement, 2002; and to declare an emergency.

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

Section 1. Section 13-518, Revised Statutes Supplement, 2003, is amended to read:

13-518. For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, (i) for fiscal years prior to fiscal year 2003-04 and after fiscal year 2004-05, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined, and (ii) for fiscal year 2003-04 and fiscal year 2004-05, the percentage increase in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue

equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-360 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3007, 77-27,136, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520, 47-119.01, 60-3001 to 60-3007, 77-27,136, and 77-3618, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;

(d) For community colleges, state aid to community colleges paid under sections 85-1536 to 85-1537;

(e) For natural resources districts, state aid to natural resources districts paid pursuant to section 77-27,136; and

(f) For educational service units, state aid appropriated under section 79-1241; and

(g) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.

Sec. 2. Section 28-414, Revised Statutes Supplement, 2002, is amended to read:

28-414. (1)(a) Except as otherwise provided in this subsection or section 28-412 or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule II of section 28-405 shall not be dispensed without the written prescription bearing the signature of a practitioner authorized to prescribe. No medical order for a controlled substance listed in Schedule II of section 28-405 shall be filled more than six months from the date of issuance. A prescription for a controlled substance listed in Schedule II of section 28-405 shall not be refilled.

(b) In emergency situations as defined by rule and regulation of the department, a controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to an authorized transmitted copy of a written, signed prescription bearing the word "emergency" or pursuant to an oral prescription reduced to writing in accordance with subdivision (3)(b) of this section and filed by a pharmacist.

(c) In nonemergency situations:

(i) A controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to an authorized transmitted copy of a written, signed prescription if the original written, signed prescription is presented to the pharmacist for review before the controlled substance is dispensed, except as provided in subdivision (1)(c)(ii) or (1)(c)(iii) of this section;

(ii) A narcotic drug listed in Schedule II of section 28-405 may be dispensed pursuant to an authorized transmitted copy of a written, signed prescription (A) to be compounded for direct parenteral administration to a patient for the purpose of home infusion therapy or (B) for administration to a patient in a hospice licensed under the Health Care Facility Licensure Act or certified under Title XVIII of the federal Social Security Act, as such title existed on May 1, 2001, and bearing the words "hospice patient";

(iii) A controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to an authorized transmitted copy of a written, signed prescription for administration to a resident of a long-term care facility; and

(iv) For purposes of subdivisions (1)(c)(ii) and (1)(c)(iii) of this section, an authorized transmitted copy of a written, signed prescription shall serve as the original written prescription and shall be maintained in accordance with subdivision (3)(a) of this section.

(d)(i) A prescription for a controlled substance listed in Schedule II of section 28-405 may be partially filled if the pharmacist does not supply the full quantity prescribed and he or she makes a notation of the quantity supplied on the face of the prescription. The remaining portion of the

prescription may be filled within seventy-two hours of the first partial filling. The pharmacist shall notify the prescribing practitioner if the remaining portion of the prescription is not or cannot be filled within such period. No further quantity may be supplied after such period without a new written, signed prescription.

(ii) 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 partially filled. Such prescription shall bear the words "terminally ill" or "long-term care facility patient" on its face. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the prescribing 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. 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. The total quantity of controlled substances listed in Schedule II which is dispensed in all partial fillings shall not exceed the total quantity prescribed. A prescription for a Schedule II controlled substance for a patient in a long-term care facility or a patient with a medical diagnosis documenting a terminal illness is valid for sixty days from the date of issuance or until discontinuance of the prescription, whichever occurs first.

(2)(a) Except as otherwise provided in this subsection or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule III, IV, or V of section 28-405 shall not be dispensed without a written or oral medical order. Such medical order is valid for six months after the date of issuance. Authorization from a practitioner authorized to prescribe is required to refill a prescription for a controlled substance listed in Schedule III, IV, or V of section 28-405. Such prescriptions shall not be refilled more than five times within six months after the date of issuance. Original prescription information for any controlled substance listed in Schedule III, IV, or V of section 28-405 may be transferred between pharmacies for purposes of refill dispensing pursuant to section 71-1,146.02.

(b) A controlled substance listed in Schedule III, IV, or V of section 28-405 may be dispensed pursuant to an authorized transmitted copy of a written, signed prescription. The authorized transmitted copy of a written, signed prescription shall serve as the original written prescription for purposes of this subsection and shall be maintained in accordance with the provisions of subdivision (3)(c) of this section.

(c) A prescription for a controlled substance listed in Schedule III, IV, or V of section 28-405 may be partially filled if (i) each partial filling is recorded in the same manner as a refilling, (ii) the total quantity dispensed in all partial fillings does not exceed the total quantity prescribed, and (iii) each partial filling is dispensed within six months after the prescription was issued.

(3)(a) Prescriptions for all controlled substances listed in Schedule II of section 28-405 shall be kept in a separate file by the dispensing practitioner and shall be maintained for a minimum of five years. The practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(b) All prescriptions for controlled substances listed in Schedule II of section 28-405 shall contain the name and address of the patient, the name and address of the prescribing practitioner, the Drug Enforcement Administration number of the prescribing practitioner, the date of issuance, and the prescribing practitioner's signature. The practitioner filling such 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 also state the name and address of the owner of the animal and the species of the animal.

(c) Prescriptions for all controlled substances listed in Schedule III, IV, or V of section 28-405 shall be filed separately from other prescriptions in a single file by the dispensing practitioner and shall be maintained for a minimum of five years. The practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(d) All prescriptions for controlled substances listed in Schedule III, IV, or V of section 28-405 shall contain the name and address of the patient, the name and address of the prescribing practitioner, the Drug

Enforcement Administration number of the prescribing practitioner, the date of issuance, and for written prescriptions, the prescribing practitioner's signature. If the prescription is for an animal, it shall also state the owner's name and address and species of the animal.

(e) A registrant who is the owner of a controlled substance may transfer:

(i) Any controlled substance listed in Schedule I or II of section 28-405 to another registrant as provided by law or by rule and regulation of the department; and

(ii) Any controlled substance listed in Schedule III, IV, or V of section 28-405 to another registrant if such owner complies with subsection (4) of section 28-411.

(f)(i) The owner of any stock of controlled substances may cause such controlled substances to be destroyed pursuant to this subdivision when the need for such substances ceases. Complete records of controlled substances destruction pursuant to this subdivision shall be maintained by the registrant for five years from the date of destruction.

(ii) When the owner is a registrant:

(A) Controlled substances listed in Schedule II, III, IV, or V of section 28-405 may be destroyed upon prior written approval of the Board of Pharmacy if witnessed by two responsible parties employed by or acting on behalf of the registrant, one of whom must be a member of the healing arts by a pharmacy inspector, by a reverse distributor, or by the federal Drug Enforcement Administration. Upon destruction, any forms required by the administration to document such destruction shall be completed; or

(B) Liquid controlled substances in opened containers which originally contained fifty milliliters or less or compounded liquid controlled substances within the facility where they were compounded may be destroyed if witnessed by two members of the healing arts and recorded in accordance with subsection (4) of section 28-411.

(iii) When the owner is a patient, such owner may transfer the controlled substances to a pharmacy for immediate destruction by two responsible parties acting on behalf of the pharmacy, one of whom must be a member of the healing arts.

(iv) When the owner is a resident of a long-term care facility or hospital, the long-term care facility or hospital shall assure that controlled substances are destroyed as follows:

(A) If the controlled substance is listed in Schedule II or III of section 28-405, the destruction shall be witnessed by an employee pharmacist or a consultant pharmacist and a member of the healing arts; or

(B) If the controlled substance is listed in Schedule IV or V of section 28-405, the destruction shall be witnessed by an employee pharmacist or a consultant pharmacist and another responsible adult.

(g) Before dispensing any controlled substance listed in Schedule II, III, IV, or V of section 28-405, the dispensing practitioner shall affix a label to the container in which the controlled substance is dispensed. Such label shall bear the name and address of the pharmacy or dispensing practitioner, the name of the patient, the date of filling, the consecutive number of the prescription under which it is recorded in the practitioner's prescription files, the name of the prescribing practitioner, and the directions for use of the controlled substance. Unless the prescribing practitioner writes "do not label" or words of similar import on the original written prescription or so designates in an oral prescription, such label shall also bear the name of the controlled substance.

(4) For purposes of this section:

(a) Authorized transmitted copy means a paper copy of a written, signed medical order issued by a practitioner authorized to prescribe which is produced by an electronic or electromagnetic transmission or other means as authorized by rule and regulation of the department upon recommendation of the Board of Pharmacy; and

(b) Long-term care facility has the same meaning as long-term care hospital in section 71-422 and includes an intermediate care facility for the mentally retarded as defined in section 71-421.

Sec. 3. Section 29-2264, Revised Statutes Supplement, 2003, is amended to read:

29-2264. (1) Whenever any person is placed on probation by a court and satisfactorily completes the conditions of his or her probation for the entire period or is discharged from probation prior to the termination of the period of probation, the sentencing court shall issue an order releasing the offender from probation. Such order in all felony cases shall provide notice that the person's voting rights are not restored upon completion of probation. The order shall include information on restoring such civil rights through the

pardon process, including application to and hearing by the Board of Pardons.

(2) Whenever any person is convicted of a misdemeanor or felony and is placed on probation by the court or is sentenced to a fine only, he or she may, after satisfactory fulfillment of the conditions of probation for the entire period or after discharge from probation prior to the termination of the period of probation and after payment of any fine, petition the sentencing court to set aside the conviction.

(3) In determining whether to set aside the conviction, the court shall consider:

(a) The behavior of the offender after sentencing;

(b) The likelihood that the offender will not engage in further criminal activity; and

(c) Any other information the court considers relevant.

(4) The court may grant the offender's petition and issue an order setting aside the conviction when in the opinion of the court the order will be in the best interest of the offender and consistent with the public welfare. The order shall:

(a) Nullify the conviction; and

(b) Remove all civil disabilities and disqualifications imposed as a result of the conviction.

(5) The setting aside of a conviction in accordance with the Nebraska Probation Administration Act shall not:

(a) Require the reinstatement of any office, employment, or position which was previously held and lost or forfeited as a result of the conviction;

(b) Preclude proof of a plea of guilty whenever such plea is relevant to the determination of an issue involving the rights or liabilities of someone other than the offender;

(c) Preclude proof of the conviction as evidence of the commission of the misdemeanor or felony whenever the fact of its commission is relevant for the purpose of impeaching the offender as a witness, except that the order setting aside the conviction may be introduced in evidence;

(d) Preclude use of the conviction for the purpose of determining sentence on any subsequent conviction of a criminal offense;

(e) Preclude the proof of the conviction as evidence of the commission of the misdemeanor or felony in the event an offender is charged with a subsequent offense and the penalty provided by law is increased if the prior conviction is proved;

(f) Preclude the proof of the conviction to determine whether an offender is eligible to have a subsequent conviction set aside in accordance with the Nebraska Probation Administration Act; or

(g) Preclude use of the conviction as evidence of commission of the misdemeanor or felony for purposes of determining whether an application filed or a license issued under sections 71-1901 to 71-1905 or ~~71-1908 to 71-1917~~ the Child Care Licensing Act or a certificate issued under sections 79-806 to 79-815 should be denied, suspended, or revoked.

(6) Except as otherwise provided for the notice in subsection (1) of this section, this section shall be retroactive in application and shall apply to all persons, otherwise eligible in accordance with the provisions of this section, whether convicted prior to, on, or subsequent to June 11, 1993.

Sec. 4. Section 43-107, Revised Statutes Supplement, 2002, is amended to read:

43-107. (1) (a) For adoption placements occurring or in effect prior to January 1, 1994, upon the filing of a petition for adoption, the county judge shall, except in the adoption of children by stepparents when the requirement of an investigation is discretionary, request the Department of Health and Human Services or any child placement agency licensed by the department to examine into the allegations set forth in the petition and to ascertain any other facts relating to such minor child and the person or persons petitioning to adopt such child as may be relevant to the propriety of such adoption, except that the county judge shall not be required to request such an examination if the judge determines that information compiled in a previous examination or study is sufficiently current and comprehensive. Upon the request being made, the department or other licensed agency shall conduct an investigation and report its findings to the county judge in writing at least one week prior to the date set for hearing.

(b) (i) For adoption placements occurring on or after January 1, 1994, a preplacement adoptive home study shall be filed with the court prior to the hearing required in section 43-103, which study is completed by the Department of Health and Human Services or a licensed child placement agency within one year before the date on which the adoptee is placed with the petitioner or petitioners and indicates that the placement of a child for the purpose of adoption would be safe and appropriate.

(ii) An adoptive home study shall not be required when the petitioner is a stepparent of the adoptee unless required by the court, except that for petitions filed on or after January 1, 1994, the judge shall order the petitioner or his or her attorney to request the Nebraska State Patrol to file a ~~Nebraska~~ national criminal history record information check and to request the department to conduct and file a check of the central register created in section 28-718 for any history of the petitioner of behavior injurious to or which may endanger the health or morals of a child. An adoption decree shall not be issued until such records are on file with the court. The petitioner shall pay the cost of the ~~Nebraska~~ national criminal history record information check and the check of the central register.

(iii) The placement of a child for foster care made by or facilitated by the department or a licensed child placement agency in the home of a person who later petitions the court to adopt the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the court at least one week prior to the hearing for adoption.

(iv) A voluntary placement for purposes other than adoption made by a parent or guardian of a child without assistance from an attorney, physician, or other individual or agency which later results in a petition for the adoption of the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the court at least one week prior to the hearing for adoption.

(v) The adoption of an adult child as provided in subsection (2) of section 43-101 shall be exempt from the requirements of an adoptive home study unless the court specifically orders otherwise. The court may order an adoptive home study, a background investigation, or both if the court determines that such would be in the best interests of the adoptive party or the person to be adopted.

(vi) Any adoptive home study required by this section shall be conducted by the department or a licensed child placement agency at the expense of the petitioner or petitioners unless such expenses are waived by the department or licensed child placement agency. The department or licensed agency shall determine the fee or rate for the adoptive home study.

(vii) The preplacement or postplacement adoptive home study shall be performed as prescribed in rules and regulations of the department and shall include at a minimum an examination into the facts relating to the petitioner or petitioners as may be relevant to the propriety of such adoption. Such rules and regulations shall require an adoptive home study to include a ~~Nebraska~~ national criminal history record information check and a check of the central register created in section 28-718 for any history of the petitioner or petitioners of behavior injurious to or which may endanger the health or morals of a child.

(2) Upon the filing of a petition for adoption, the judge shall require that a complete medical history be provided on the child, except that in the adoption of a child by a stepparent the provision of a medical history shall be discretionary. A medical history shall be provided, if available, on the biological mother and father and their biological families, including, but not limited to, siblings, parents, grandparents, aunts, and uncles, unless the child is foreign born or was abandoned. The medical history or histories shall be reported on a form provided by the Department of Health and Human Services Finance and Support and filed along with the report of adoption as provided by section 71-626. If the medical history or histories do not accompany the report of adoption, the Department of Health and Human Services Finance and Support shall inform the court and the State Court Administrator. The medical history or histories shall be made part of the court record. After the entry of a decree of adoption, the court shall retain a copy and forward the original medical history or histories to the Department of Health and Human Services Finance and Support. This subsection shall only apply when the relinquishment or consent for an adoption is given on or after September 1, 1988.

Sec. 5. Section 43-3344, Revised Statutes Supplement, 2002, is amended to read:

43-3344. ~~Until the State Disbursement Unit established in section 43-3342 becomes operative, the Title IV-D Division shall reimburse counties for unrecovered costs associated with the processing and disbursement of support order payments based upon insufficient funds checks. Support order payments shall be disbursed within two business days after receipt. Support order payments placed in the Title IV-D Support Payment Distributive Fund~~

shall be exempt from the Uniform Disposition of Unclaimed Property Act. If, within three years after the date of receipt, the Title IV-D Division is unable to disburse support order payments collected pursuant to law and also unable to return the collected payments to the noncustodial parent, such payments shall be considered abandoned property. This abandoned property shall be used by the state for child support enforcement as provided by the rules and regulations of the division.

Sec. 6. Section 43-3346, Revised Statutes Supplement, 2002, is amended to read:

43-3346. The Title IV-D Support Payment Distributive Fund is created. The fund shall be used for the collection and disbursement of support payments as provided in sections 43-3341 to 43-3347. ~~Any money in the Title IV-D Support Payment Cash Fund on April 14, 2000, shall be transferred to the Title IV-D Support Payment Distributive Fund.~~

Sec. 7. Section 68-1036.02, Reissue Revised Statutes of Nebraska, is amended to read:

68-1036.02. (1) The recipient of medical assistance benefits under the medical assistance program established under section 68-1018 shall be indebted to the Department of Health and Human Services Finance and Support for the total amount paid for medical assistance on behalf of the recipient if:

(a) The recipient was fifty-five years of age or older at the time the medical assistance was provided; or

(b) The recipient resided in a medical institution and, at the time of institutionalization or application for medical assistance, whichever is later, the department determines that the recipient could not have reasonably been expected to be discharged and resume living at home. For purposes of this section, medical institution means a skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, nursing facility, or inpatient hospital.

(2) The debt accruing under subsection (1) of this section arises during the life of the recipient but shall be held in abeyance until the death of the recipient. ~~No~~ Any such debt to the department shall exist if that exists when the recipient dies and he or she is survived (a) by a spouse or (b) shall be recovered only after the death of the recipient's spouse, if any, and only when the recipient is not survived by a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by the Supplemental Security Income criteria.

(3) The debt shall include the total amount of medical assistance provided when the recipient was fifty-five years of age or older or during a period of institutionalization as described in subsection (1) of this section and shall not include interest.

(4) In any probate proceedings in which the department has filed a claim under this section, no additional evidence of foundation shall be required for the admission of the department's payment record supporting its claim if the payment record bears the seal of the department, is certified as a true copy, and bears the signature of an authorized representative of the department.

(5) The department may waive or compromise its claim, in whole or in part, if the department determines that enforcement of the claim would not be in the best interests of the state or would result in undue hardship.

(6) The department may adopt and promulgate rules and regulations to carry out this section.

Sec. 8. Section 71-101, Reissue Revised Statutes of Nebraska, is amended to read:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1,343 to 71-1,349, 71-1301 to 71-1354, and 71-2801 to 71-2823 and section 14 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 or professional board means one of the boards appointed by the State Board of Health pursuant to sections 71-111 and 71-112;

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

(3) Profession or health profession means any of the several groups named in section 71-102;

(4) Department means the Department of Health and Human Services Regulation and Licensure;

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

(6) License, licensing, or licensure means 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, means 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 means a document issued by the department which designates particular credentials for an individual;

(8) Lapse means 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;

(9) Credentialing means the totality of the process associated with obtaining state approval to provide health care services or human services or changing aspects of a current approval. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the services of a certain profession. Credential includes a license, certificate, or registration; and

(10) Dependence means a compulsive or chronic need for or an active addiction to alcohol or any controlled substance or narcotic drug.

Sec. 9. Section 71-110.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-110.01. (1) The department may provide for the renewal of a credential to engage in business as an apprentice training salon; a cosmetic establishment; a cosmetology salon; an electrology establishment; an emergency medical service; an emergency medical training program; an esthetics salon; a funeral establishment or branch establishment; a massage therapy establishment; a massage therapy school; a nail technology salon; a nail technology school; a satellite cosmetology classroom; a school of cosmetology; ~~a school of electrology~~, or a school of esthetics upon request of the credentialed entity as provided in this section. The credential renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the appropriate professional board, shall establish by rule and regulation. The request for renewal need not be in any particular form and shall be accompanied by the renewal fee, if applicable. Such fee shall be paid not later than the date of the expiration of such credential.

(2) At least thirty days before the expiration of a credential, the department shall notify each credentialed entity by a letter addressed to the place of business as noted upon the department's records. Any credentialed entity which fails to pay the renewal fee on or before the date of expiration of the credential shall be given a second notice in the same manner as the first notice advising the entity (a) of the failure to pay the renewal fee, (b) that the credential has expired, (c) that the entity is subject to an administrative penalty under section 71-164.01 if the entity engages in business after the expiration date and prior to renewal, reinstatement, or issuance of a credential, (d) that upon the receipt of the renewal fee and the required late fee within thirty days after the expiration date, no order of revocation will be entered, and (e) that upon the failure to receive the fees, the credential will be revoked in the manner prescribed in section 71-149.

Sec. 10. Section 71-162, Reissue Revised Statutes of Nebraska, is amended to read:

71-162. (1) It is the intent of the Legislature that the revenue to cover the cost of the credentialing system administered by the department is to be derived from General Funds, cash funds, federal funds, gifts, grants, or fees from individuals or entities seeking credentials. The credentialing system includes the totality of the credentialing infrastructure and the process of issuance and renewal of credentials, examinations, inspections, investigations, continuing competency, compliance assurance, and the credentialing review process for the following individuals and entities that provide health services and health-related services:

(a) Individuals in the practice of acupuncture; advanced practice nursing; asbestos abatement, inspection, project design, and training; athletic training; audiology; speech-language pathology; chiropractic; dentistry; dental hygiene; environmental health; hearing aid instrument dispensing and fitting; lead-based paint abatement, inspection, project design, and training; medical nutrition therapy; medical radiography; medication aide services; medicine and surgery; mental health practice;



nursing; ~~nurse aide~~ nursing assistant or paid dining assistant services; nursing home administration; occupational therapy; optometry; osteopathic medicine; pharmacy; physical therapy; podiatry; psychology; radon detection, measurement, and mitigation; respiratory care; social work; swimming pool operation; veterinary medicine and surgery; water system operation; constructing or decommissioning water wells and installing water well pumps and pumping equipment; and wholesale drug distribution; and

(b) Individuals in the practice of and entities in the business of cosmetology; electrology; emergency medical services; esthetics; funeral directing and embalming; massage therapy; and nail technology.

(2) The department shall determine the cost of the credentialing system for such individuals and entities by calculating the total of the base costs, the variable costs, and any adjustments as provided in sections 71-162.01 to 71-162.03.

(3) When fees are to be established pursuant to section 71-162.04 for individuals or entities other than individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the department, upon recommendation of the appropriate board if applicable, shall base the fees on the cost of the credentialing system and shall include usual and customary cost increases, a reasonable reserve, and the cost of any new or additional credentialing activities. For individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the Water Well Standards and Contractors' Licensing Board shall establish the fees as otherwise provided in this subsection. All such fees shall be collected as provided in section 71-163.

Sec. 11. Section 71-185.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-185.03. (1) The department upon recommendation of the Board of Dentistry shall issue a faculty license to any person who meets the requirements of subsection (4) or (5) of this section. A faculty licensee may practice dentistry only as a faculty member at a dental education institution in the State of Nebraska accredited by the Commission on Dental Accreditation of the American Dental Association, the Commission on Dental Accreditation of Canada, or similar organization as determined by the board and may teach dentistry, conduct research, and participate in an institutionally administered faculty practice only at such dental education institution. A faculty licensee eligible for licensure under subsection (5) of this section shall limit his or her practice to the clinical discipline in which he or she has received postgraduate education at an accredited dental education institution.

(2) Any person who desires a faculty license shall make a written application to the department. The application shall include information regarding the applicant's professional qualifications, experience, and licensure. The application shall be accompanied by a copy of the applicant's dental degree, any other degrees or certificates for postgraduate education of the applicant, the required fee, and certification from the dean of an accredited dental education institution in the State of Nebraska that the applicant has a contract to be employed as a full-time faculty member at such institution.

(3) A faculty license shall expire at the same time and be subject to the same renewal requirements as a regular dental license, except that such license shall remain valid and may only be renewed if:

(a) The faculty licensee remains employed as a full-time faculty member of an accredited dental education institution in the State of Nebraska; and

(b) The faculty licensee demonstrates continuing clinical competency if required by the board.

(4) An individual who graduated from an accredited dental education institution shall be eligible for a faculty license if he or she:

(a) Has a license to practice dentistry in some other state in the United States or a Canadian province;

(b) Has a contract to be employed as a full-time faculty member at an accredited dental education institution in the State of Nebraska;

(c) Passes a jurisprudence examination administered by the Board of Dentistry; and

(d) Agrees to demonstrate continuing clinical competency as a condition of renewal if required by the board.

(5) An individual who graduated from a nonaccredited dental education institution shall be eligible for a faculty license if he or she:

(a) Has completed at least two years of postgraduate education at an accredited dental education institution and received a certificate or degree

from such institution;

(b) Has a contract to be employed as a full-time faculty member at an accredited dental education institution in the State of Nebraska;

(c) Passes a jurisprudence examination administered by the Board of Dentistry;

(d) Agrees to demonstrate continuing clinical competency as a condition of renewal if required by the board; and

(e) Has passed Part I and Part II of the National Board Dental Examinations or its equivalent as determined by the Board of Dentistry.

Sec. 12. Section 71-190, Reissue Revised Statutes of Nebraska, is amended to read:

71-190. (1) No person owning, operating, or conducting any place where dental work of any kind is done or contracted for, shall employ or permit any unlicensed dentist to practice dentistry in such place.

(2) No person shall coerce or attempt to coerce a licensed dentist to practice dentistry in any manner contrary to the standards of acceptable and prevailing practice of the dental profession. Any dentist subjected to such coercion or attempted coercion has a cause of action against the person and may recover his or her damages and reasonable attorney's fees.

(3) Violation of this section by a health care professional regulated pursuant to the Uniform Licensing Law may be considered evidence of an act of unprofessional conduct.

(4) Violation of this section by a person not regulated under the Uniform Licensing Law is a Class III misdemeanor.

Sec. 13. Section 71-1,142, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,142. For purposes of sections 71-1,142 to 71-1,151 and section 14 of this act and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy means (a) the interpretation, evaluation, and implementation of a medical order, (b) the dispensing of drugs and devices, (c) drug product selection, (d) the administration of drugs or devices, (e) drug utilization review, (f) patient counseling, (g) the provision of pharmaceutical care, and (h) the responsibility for compounding and labeling of dispensed or repackaged drugs and devices, proper and safe storage of drugs and devices, and maintenance of proper records. The active practice of pharmacy means the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(2) Administer means to directly apply a drug or device by injection, inhalation, ingestion, or other means to the body of a patient or research subject;

(3) Administration means the act of (a) administering, (b) keeping a record of such activity, and (c) observing, monitoring, reporting, and otherwise taking appropriate action regarding desired effect, side effect, interaction, and contraindication associated with administering the drug or device;

(4) Board means the Board of Pharmacy;

(5) Caregiver means any person acting as an agent on behalf of a patient or any person aiding and assisting a patient;

(6) Chart order means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412. Chart order does not include a prescription;

(7) Compounding means preparing, mixing, or assembling a drug or device (a) as the result of a practitioner's medical order or initiative occurring in the course of 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 includes preparing drugs or devices in anticipation of medical orders based upon routine, regularly observed prescribing patterns;

(8) Delegated dispensing means the practice of pharmacy by which one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more persons pursuant to sections 71-1,147.42 to 71-1,147.64 under a protocol which provides that such person may perform certain dispensing functions authorized by the pharmacist or pharmacists under certain specified conditions and limitations;

(9) Deliver or delivery means to actually, constructively, or attempt to transfer a drug or device from one person to another, whether or not for consideration;

(10) Department means the Department of Health and Human Services Regulation and Licensure;

(11) Device means 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 practitioner and dispensed by a pharmacist or other person authorized by law to do so;

(12) Dialysis drug or device distributor means a manufacturer or wholesaler who provides dialysis drugs, solutions, supplies, or devices, to persons with chronic kidney failure for self-administration at the person's home or specified address, pursuant to a prescription;

(13) Dialysis drug or device distributor worker means a person working for a dialysis drug or device distributor with a delegated dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task or tasks of assembling, labeling, or delivering drugs or devices pursuant to a prescription;

(14) Dispense or dispensing means interpreting, evaluating, and implementing a medical order, including preparing and delivering a drug or device to a patient or caregiver in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. Dispensing includes (a) dispensing incident to practice, (b) dispensing pursuant to a delegated dispensing permit, (c) dispensing pursuant to a medical order, and (d) any transfer of a prescription drug or device to a patient or caregiver other than by administering;

(15) Distribute means to deliver a drug or device, other than by administering or dispensing;

(16) Facility means a health care facility as defined in section 71-413;

(17) Hospital has the same meaning as in section 71-419;

(18) Person means an individual, corporation, partnership, limited liability company, association, or other legal entity;

(19) Labeling means 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;

(20) Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(21) Pharmaceutical care means the provision of drug therapy for the purpose of achieving therapeutic outcomes that improve a patient's quality of life. Such outcomes 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 includes 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;

(22) Pharmacist means any person who is licensed by the State of Nebraska to practice pharmacy;

(23) Pharmacy has the same meaning as in section 71-425;

(24) Drugs, medicines, and medicinal substances means (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 or devices as defined in subdivision (31) of this section;

(25) Patient counseling means the verbal communication by a pharmacist, pharmacist intern, or practitioner, 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 prescription drugs and devices and also includes the duties set out in section 71-1,147.35;

(26) Pharmacist in charge means a pharmacist who is designated on a pharmacy license or designated by a hospital as being responsible for the practice of pharmacy in the pharmacy for which a pharmacy license is issued and who works 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;

(27) Pharmacist intern means ~~(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 pharmacist 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. Such licensed pharmacist shall either be (i) the person to whom the pharmacy license is issued or a person in the actual employ of the pharmacy licensee or (ii) the delegating pharmacist designated in a delegated dispensing agreement by a hospital with a delegated dispensing permit a person who meets the requirements of section 14 of this act;

(28) Pharmacy technician means an individual at least eighteen years of age who is a high school graduate or officially recognized by the State Department of Education as possessing the equivalent degree of education, who has never been convicted of any drug-related misdemeanor or felony, and who, under the written control procedures and guidelines of an employing pharmacy, may perform those functions which do not require professional judgment and which are subject to verification to assist a pharmacist in the practice of pharmacy;

(29) Practitioner means an advanced practice registered nurse, certified registered nurse anesthetist, certified nurse midwife, dentist, optometrist, physician assistant, physician, podiatrist, or veterinarian;

(30) Prescribe means to issue a medical order;

(31) Prescription drug or device or legend drug or device means (a) a drug or device which is required under federal law to be labeled with one of the following statements prior to being dispensed or delivered: (i) Caution: Federal law prohibits dispensing without prescription; (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian; or (iii) "Rx Only" or (b) a drug or device which is required by any applicable federal or state law to be dispensed pursuant only to a prescription or chart order or which is restricted to use by practitioners only;

(32) Prescription means an order for a drug or device issued by a practitioner for a specific patient, for emergency use, or for use in immunizations. Prescription does not include a chart order;

(33) Nonprescription drugs means nonnarcotic medicines or drugs which may be sold without a medical order 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;

(34) Public health clinic worker means a person in a public health clinic with a delegated dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task of dispensing authorized refills of oral contraceptives pursuant to a written prescription;

(35) Public health clinic means 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 71-416;

(36) Signature means the name, word, or mark of a person written in his or her own hand with the intent to authenticate a writing or other form of communication or a digital signature which complies with section 86-611;

(37) Supervision means the immediate personal guidance and direction by the licensed pharmacist on duty in the facility of the performance by a pharmacy technician of authorized activities or functions subject to verification by such pharmacist, except that when a pharmacy technician performs 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 licensed physician assistant to persons who are patients or residents of a facility, the activities or functions of such pharmacy technician shall only be subject to verification by a pharmacist on duty in the facility;

(38) Verification means the confirmation by a supervising pharmacist of the accuracy and completeness of the acts, tasks, or functions undertaken by a pharmacy technician to assist the pharmacist in the practice of pharmacy;

(39) Written control procedures and guidelines means the document prepared and signed by the pharmacist in charge and approved by the board which specifies the manner in which basic levels of competency of pharmacy technicians employed by the pharmacy are determined, the manner in which supervision is provided, the manner in which the functions of pharmacy technicians are verified, the maximum ratio of pharmacy technicians to one pharmacist used in the pharmacy, and guidelines governing the use of pharmacy technicians and the functions which they may perform; and

(40) Medical gas distributor means a person who dispenses medical gases to a patient or ultimate user but does not include a person who manufactures medical gases or a person who distributes, transfers, delivers, dispenses, or sells medical gases to a person other than a patient or ultimate

user.

Sec. 14. (1) A pharmacist intern shall be (a) a student currently enrolled in an accredited pharmacy program, (b) a graduate of an accredited pharmacy program serving his or her internship, or (c) a graduate of a pharmacy program located outside the United States which is not accredited and who has successfully passed equivalency examinations approved by the board. Intern registration based on enrollment in or graduation from an accredited pharmacy program shall expire not later than fifteen months after the date of graduation or at the time of professional licensure, whichever comes first. Intern registration based on graduation from a pharmacy program located outside of the United States which is not accredited shall expire not later than fifteen months after the date of issuance of the registration or at the time of professional licensure, whichever comes first.

(2) A pharmacist 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. Such licensed pharmacist shall either be (a) the person to whom the pharmacy license is issued or a person in the actual employ of the pharmacy licensee or (b) the delegating pharmacist designated in a delegated dispensing agreement by a hospital with a delegated dispensing permit.

Sec. 15. Section 71-1,143.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,143.01. (1) Every applicant for examination and ~~registration~~ licensure as a pharmacist shall be not less than twenty-one years of age, of good moral character and temperate habits, a graduate of an accredited ~~school or college of pharmacy, or an accredited department of pharmacy of a university~~ pharmacy program, recognized by the board, except that an applicant who is a graduate of a ~~school, college, or university~~ department of pharmacy program located outside of the United States and which is not accredited, shall be deemed to have satisfied the requirement of being a graduate of an accredited ~~school, college, or department of pharmacy~~ program upon providing evidence satisfactory to the board, of graduation from such foreign ~~school, college, or department of pharmacy~~ program and upon successfully passing an equivalency examination approved by the board.

(2) Every applicant shall (a) file proof of sufficient internship experience in pharmacy, under the supervision of a ~~registered or~~ licensed pharmacist, as may be required by the board, which shall comply with national requirements for internship as set forth by the National Association of Boards of Pharmacy, (b) ~~shall~~ have satisfactorily completed at least five years of college of which at least three years shall have been in an accredited ~~school or college of pharmacy, or in an accredited department of pharmacy of a university,~~ pharmacy program, and shall (c) pass an examination satisfactory to the board.

(3) Proof of the qualifications for ~~registration~~ licensure prescribed in this section shall be made to the satisfaction of the board, substantiated by proper affidavits. ~~In , except that in~~ all cases the actual time of attendance ~~at in an accredited school or college of pharmacy or an accredited department of pharmacy of a university is~~ pharmacy program shall be certified by the appropriate school, college, or university authority by the issuance of the degree granted to a graduate of such school, college, or ~~department of pharmacy university.~~ Service and experience in pharmacy under the supervision of a ~~registered~~ licensed pharmacist, as required in this section, shall be predominantly related to the practice of pharmacy, and shall include the keeping of records and the making of reports required under state and federal statutes. The Department of Health and Human Services Regulation and Licensure, upon the recommendation of the board, shall adopt and promulgate rules and regulations as may be required to establish standards for internship which shall comply with national requirements to effect reciprocity with other states which have similar requirements for licensure. The required fee for pharmacy internship shall accompany the application.

Sec. 16. Section 71-1,146, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,146. An accredited ~~school or college of pharmacy or an accredited department of pharmacy of a university~~ pharmacy program shall be one approved by the board upon the recommendation of the accrediting committee of the American Council on Pharmaceutical Accreditation Council for Pharmacy Education. It shall be a ~~school or college of pharmacy or a department of pharmacy of a university~~ pharmacy program which maintains at least a three-year course in pharmacy, consisting of not less than thirty-two weeks of instruction each school year. Such ~~school or college of pharmacy or department of pharmacy of a university~~ pharmacy program shall require as a condition to enrollment therein two full years of college or university

credit. The combined course shall consist of five years of college or university credit each year of which shall consist of not less than thirty-two weeks of instruction.

Sec. 17. Section 71-1,147.33, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.33. (1) A pharmacy technician shall only perform tasks which do not require professional judgment and which are subject to verification to assist a pharmacist in the practice of pharmacy.

(2) The functions and tasks which shall not be performed by pharmacy technicians or individuals dispensing pursuant to a delegated dispensing permit include, but are not limited to:

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

(b) Providing patient counseling;

(c) Performing any evaluation or necessary clarification of a medical order or performing any functions other than strictly clerical functions involving a medical order;

(d) Supervising or verifying the tasks and functions of pharmacy technicians;

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

(f) Releasing any confidential information maintained by the pharmacy;

(g) Performing any professional consultations; and

(h) Drug product selecting, with regard to an individual medical order, in accordance with the Nebraska Drug Product Selection Act.

(3) The Director of Regulation and Licensure shall, upon recommendation of the board, waive any of the limitations in subsection (2) of this section for purposes of a scientific study of the role of pharmacy technicians approved by the board. Such study shall be based upon providing improved patient care or enhanced pharmaceutical care. Any such waiver shall state the length of the study and shall require that all study data and results be made available to the board upon the completion of the study. Nothing in this subsection shall require the board to approve any study proposed by this subsection.

(4) The pharmacy employing pharmacy technicians shall be responsible for the supervision and performance of such technicians.

(5) 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 pharmacy technicians. The supervision of such technicians at the place of employment shall be performed by the licensed pharmacist who is on duty in the facility with the pharmacy technicians.

(6)(a) Each pharmacy shall document, in a manner and method specified in the written control procedures and guidelines, the basic competence of the pharmacy technician prior to performance of tasks and functions by such technician. Such basic competence shall include, but not be limited to:

(i) Basic pharmaceutical nomenclature;

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

(iii) The meaning and use of Roman numerals;

(iv) Abbreviations used for dosages and directions to patients;

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

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

(vii) 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 pharmacy technicians; and

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

(b) Written control procedures and guidelines shall specify the functions that pharmacy technicians may perform in the employing pharmacy. The written control procedures and guidelines shall specify the means used by the employing pharmacy to verify that the prescribed drug or device, the dosage form, and the directions provided to the patient or caregiver conform to the medical order authorizing the drug or device to be dispensed.

(c) The written control procedures and guidelines shall specify the manner in which the verification made prior to dispensing is documented.

(7) Each pharmacy or facility shall, before using pharmacy technicians, file with the board a copy of its written control procedures and

guidelines and receive approval of its written control procedures and guidelines from the board. The board shall, within ninety days from the filing of such written control procedures and guidelines, review and either approve or disapprove them. The board shall notify the pharmacy or facility of the approval or disapproval. The board or its representatives shall have access to the approved written control procedures and guidelines upon request. Any written control procedures and guidelines for supportive pharmacy personnel that were filed by a pharmacy and approved by the board prior to May 26, 1999, shall be deemed to be approved and to apply to pharmacy technicians.

(8) Any hospital using supportive pharmacy personnel prior to June 11, 1993, and using pharmacy technicians on or after May 1, 2001, shall file a copy of written control procedures and guidelines with the board by February 1, 2002, or such hospital shall be in violation of subsection (2) of section 71-1,147.

(9) (a) If pharmacy technicians 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 pharmacy technicians 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 pharmacy technicians 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. 18. Section 71-1,155, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,155. No person may practice veterinary medicine and surgery in the state who is not a licensed veterinarian or the holder of a valid temporary license issued by the board. The Nebraska Veterinary Practice Act shall not be construed to prohibit:

(1) An employee of the federal, state, or local government from performing his or her official duties;

(2) A person who is a regular student in a veterinary school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian during a school vacation period;

(3) A person who is a regular student in a veterinary technician school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian during a school vacation period;

(4) Any merchant or manufacturer from selling feed or feeds whether medicated or nonmedicated;

~~(4)~~ (5) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;

~~(5)~~ (6) Any merchant or manufacturer from selling from his or her established place of business medicines, appliances, or other products used in the prevention or treatment of animal diseases or any merchant or manufacturer's representative from conducting educational meetings to explain the use of his or her products or from investigating and advising on problems developing from the use of his or her products;

~~(6)~~ (7) An owner of livestock or a bona fide farm or ranch employee from performing any act of vaccination, surgery, pregnancy testing, or the administration of drugs in the treatment of domestic animals under his or her custody or ownership nor the exchange of services between persons or bona fide employees who are principally farm or ranch operators or employees in the performance of these acts;

~~(7)~~ (8) A member of the faculty of a veterinary school or veterinary science department from performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department or in connection with a continuing competency activity;

~~(8)~~ (9) Any person from selling or applying any pesticide, insecticide, or herbicide;

~~(9)~~ (10) Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals;

~~(10)~~ (11) Any person from treating or in any manner caring for domestic chickens, turkeys, or waterfowl, which are specifically exempted from the Nebraska Veterinary Practice Act; or

~~(11)~~ (12) Any person from performing dehorning or castrating livestock, not to include equidae.

For purposes of the Nebraska Veterinary Practice Act, castration shall be limited to the removal or destruction of male testes.

Sec. 19. Section 71-341, Reissue Revised Statutes of Nebraska, is amended to read:

71-341. The Legislature finds that: (1) A great number of Nebraska citizens regularly demand and receive cosmetology, nail technology, esthetics, and electrology services; (2) the practices of cosmetology, nail technology, esthetics, and electrology involve the use of implements and chemicals that, if used or applied improperly, can be hazardous to human health and safety; (3) inadequate sanitation in the practice of cosmetology, nail technology, esthetics, or electrology can encourage the spread of contagious diseases, infections, and infestations to the detriment of the health and safety of the public; (4) the knowledge of proper sanitation techniques and the proper use of implements and chemicals can best be gained by rigorous and extensive training in cosmetology, nail technology, and esthetics, ~~and electrology~~ at institutions operated exclusively for such purposes; (5) the need of the public to be served by well-trained persons and the need of cosmetology, nail technology, ~~and esthetics, and electrology~~ students to receive an appropriate education can best be met through the enactment of standards for the approval of schools of cosmetology, nail technology schools, ~~and schools of esthetics, and schools of electrology;~~ (6) the effectiveness of cosmetology, nail technology, esthetics, or electrology training and the competency to practice can best be demonstrated by the passage of an impartially administered examination before a person is permitted to practice; (7) continuing competency can best be demonstrated by participation in continuing competency activities; (8) the establishment and maintenance of a safe environment in places where cosmetology, nail technology, esthetics, or electrology is practiced can best be ensured through the establishment of operating and sanitary requirements for the safe and sanitary operation of such places; (9) the protection of the health and safety of its citizens is a principal concern and duty of the State of Nebraska; and (10) the reasonable regulation and limitation of a field of practice or occupation for the purpose of protecting the health and safety of the public is a legitimate and justified exercise of the police power of the state.

Sec. 20. Section 71-342, Reissue Revised Statutes of Nebraska, is amended to read:

71-342. The Legislature declares its intent to implement the findings specified in section 71-341 through the Nebraska Cosmetology Act, to regulate the practices and professions of cosmetology, nail technology, esthetics, and electrology and cosmetology, nail technology, ~~and esthetics, and electrology~~ education in all forms, to limit the practice and teaching of cosmetology, nail technology, ~~or esthetics, or electrology~~ to persons and institutions as stipulated in the Nebraska Cosmetology Act, and to penalize persons violating such act. The Legislature directs that all interpretations of the act be made with full cognizance of the findings and intentions expressed in this section and section 71-341.

Sec. 21. Section 71-356.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-356.04. Electrology instructor ~~shall mean~~ means a person licensed under the Nebraska Cosmetology Act to teach any or all of the practices of electrology. ~~in a school of electrology.~~

Sec. 22. Section 71-365.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-365.01. School of electrolysis ~~shall mean~~ means a school for the education and training of electrologists. ~~which the department has approved.~~

Sec. 23. Section 71-368, Reissue Revised Statutes of Nebraska, is amended to read:

71-368. Student means a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology, ~~or esthetics, or electrology~~ under the supervision of an instructor, ~~or esthetics instructor, or electrology instructor~~ in a school of cosmetology, ~~or school of esthetics, or school of electrology.~~

Sec. 24. Section 71-371, Reissue Revised Statutes of Nebraska, is amended to read:

71-371. Teaching means the act of imparting and demonstrating



knowledge of cosmetology, nail technology, esthetics, or electrology theory and practices to students, nail technology students, or apprentices in an apprentice salon, a school of cosmetology, a nail technology school, or a school of esthetics, ~~or a school of electrology~~ by an instructor, an esthetics instructor, a nail technology instructor, a nail technology student instructor, or a student instructor for the purpose of preparing the students, nail technology students, nail technology student instructors, or apprentices to engage in the occupations of cosmetology, nail technology, esthetics, or electrology.

Sec. 25. Section 71-385.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-385.01. ~~Beginning January 1, 1996, no~~ No person, group, company, limited liability company, or other entity shall engage in any of the following acts without being duly licensed as required by the Nebraska Cosmetology Act, unless specifically excepted by such act:

(1) To engage in or follow or to advertise or hold oneself out as engaging in or following any of the practices of electrology;

(2) To engage in or advertise or hold oneself out as engaging in the teaching of any of the practices of electrology; or

(3) To operate or advertise or hold oneself out as operating an establishment in which any of the practices of electrology ~~or the teaching of any of the practices of electrology~~ are carried out.

Sec. 26. Section 71-387, Reissue Revised Statutes of Nebraska, is amended to read:

71-387. In order to be licensed by the department by examination, an individual shall meet, and present to the department evidence of meeting, the following requirements:

(1) Has attained the age of seventeen years on or before the beginning date of the examination for which application is being made, as evidenced by a birth certificate, baptismal certificate, or other equivalent document as determined by the department;

(2) Has completed formal education equivalent to a United States high school education, as evidenced by a high school diploma, general educational development certificate, or equivalent document as determined by the department;

(3) Possesses the ability to identify and respond to emergency situations that could occur in the practice of cosmetology, esthetics, or electrology, as evidenced by successful completion of a basic first-aid course;

(4) Makes complete and proper application to the department which includes the individual's social security number, accompanied by the appropriate fee;

(5) Possesses a minimum competency in the knowledge and skills necessary to perform the practices for which licensure is sought, as evidenced by successful completion of an examination in the appropriate practices approved by the board and administered by the department;

(6) Possesses sufficient ability to read the English language to permit the applicant to practice in a safe manner, as evidenced by successful completion of the written examination; and

(7) Has graduated from a school of cosmetology or an apprentice salon in Nebraska, a school of esthetics in or outside of Nebraska, or a school of ~~electrology in or outside of Nebraska~~ electrolysis upon completion of a program of studies appropriate to the practices for which licensure is being sought, as evidenced by a diploma or certificate from the school or apprentice salon to the effect that the applicant has complied with the following:

(a) For licensure as a cosmetologist, the program of studies shall consist of a minimum of two thousand one hundred hours and two thousand credits;

(b) For licensure as an esthetician, the program of studies shall consist of a minimum of six hundred hours and six hundred credits;

(c) For licensure as a cosmetology instructor, the program of studies shall consist of a minimum of nine hundred twenty-five hours beyond the program of studies required for licensure as a cosmetologist earned in a period of not less than six months;

(d) For licensure as a cosmetology instructor, be currently licensed as a cosmetologist in Nebraska, as evidenced by possession of a valid Nebraska cosmetology license;

(e) For licensure as an electrologist, the program of studies shall consist of a minimum of six hundred hours and six hundred credits;

(f) For licensure as an electrology instructor, be currently licensed as an electrologist in Nebraska and have practiced electrology

actively for at least five years immediately before the application; and

(g) For licensure as an esthetics instructor, completion of a program of studies consisting of a minimum of three hundred hours beyond the program of studies required for licensure as an esthetician and current licensure as an esthetician in Nebraska.

If any lapse in training of two years or longer occurs, all hours and credits earned shall be forfeited. Hours and credits shall be earned exclusively in either a school of cosmetology, school of esthetics, school of electrolysis, or apprentice salon. No hours or credits earned in one type of establishment may be transferred to an establishment of another type. The department shall grant a license in the appropriate category to any person meeting the requirements specified in this section.

Sec. 27. Section 71-389, Reissue Revised Statutes of Nebraska, is amended to read:

71-389. (1) The board shall approve and the department shall cause examinations to be administered as required for licensure under the Nebraska Cosmetology Act for the purpose of establishing the possession of minimum competency in the knowledge and skills required on the part of the applicant.

(2) No person shall be permitted to take an examination for licensure unless he or she has met all the requirements of subdivisions (1) through (4) and (7) of section 71-387, except for persons taking the examination under section 71-395.

(3) The department shall provide at least one year's notice of future examination dates to schools of cosmetology, ~~schools of electrolysis,~~ and apprentice salons. Such establishments shall be responsible for notifying their students and apprentices of upcoming examination dates.

Sec. 28. Section 71-3,102, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,102. (1) An applicant for registration as a standard student or apprentice shall show evidence that he or she attained the age of seventeen years on or before the date of his or her enrollment in a school of cosmetology, a ~~school of electrology,~~ a school of esthetics, or an apprentice salon, has completed the equivalent of a high school education, has been accepted for enrollment at a school of cosmetology, a ~~school of electrology,~~ a school of esthetics, or an apprentice salon, and has not undertaken any training in cosmetology or esthetics without being registered as a student or apprentice.

(2) An applicant for registration as a special study student or apprentice shall show evidence that he or she:

(a) Has attained the age of seventeen years on or before the date of enrollment in a school of cosmetology, a ~~school of electrology,~~ a school of esthetics, or an apprentice salon;

(b) Has completed the tenth grade;

(c) Has been accepted for enrollment at a school of cosmetology, a ~~school of electrology,~~ a school of esthetics, or an apprentice salon; and

(d) Is actively continuing his or her formal high school education on a full-time basis as determined by the department.

An applicant for registration as a special study student or apprentice shall not have undertaken any training in cosmetology, ~~or esthetics,~~ ~~or electrology~~ without being registered as a student or apprentice.

Special study students shall be limited to attending a school of cosmetology, a ~~school of electrology,~~ a school of esthetics, or an apprentice salon for no more than eight hours per week during the school year.

(3) Proof of age shall consist of a birth certificate, baptismal certificate, or other equivalent document as determined by the department. Evidence of education shall consist of a high school diploma, general educational development certificate, or equivalent document as determined by the department. No school of cosmetology, ~~school of electrology,~~ school of esthetics, or apprentice salon shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements for registration. Each school of cosmetology, ~~school of electrology,~~ school of esthetics, or apprentice salon shall submit a complete registration within five days following the first day of courses. No school of cosmetology, ~~school of electrology,~~ school of esthetics, or apprentice salon shall continue training an individual for whom the establishment has not submitted a complete registration application within such five-day period. No school of cosmetology, ~~school of electrology,~~ school of esthetics, or apprentice salon shall continue to train or enroll a person who has not received his or her registration within thirty days of its submission without the permission of the department.

Sec. 29. Section 71-3,105, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,105. Registration shall be granted for a set period of time and cannot be renewed. Registration as a guest artist shall expire two years following the initial date of issuance. Registration as a cosmetician shall expire two years following the initial date of issuance. Registration as a student, apprentice, or student instructor shall expire upon successful completion of the licensing examination or termination of enrollment in a school of cosmetology, ~~a school of electrology~~, a school of esthetics, or an apprentice salon. Registration as a temporary practitioner shall expire six weeks following the written examination date or upon receipt of examination results, whichever occurs first, except that the registration of a temporary practitioner who fails to take the first regularly scheduled examination shall expire immediately after the beginning of the examination unless the board finds that the temporary practitioner was unable to attend the examination due to an emergency or other valid circumstances, in which case the board may extend the registration until six weeks after the date of the next regularly scheduled written examination or upon receipt of the examination results, whichever occurs first. No registration may be extended in such manner more than once.

Sec. 30. Section 71-3,106.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,106.01. All epilators used in a ~~school of electrology~~ ~~or~~ in an electrology establishment shall be approved by the federal Food and Drug Administration.

Sec. 31. Section 71-3,137, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,137. Any person seeking a license to operate a school of cosmetology, or school of esthetics, ~~or~~ ~~school of electrology~~ shall submit an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A completed application shall be received by the department at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before the proposed opening of the school. If the applicant is an individual, the application shall include the applicant's social security number.

Sec. 32. Section 71-3,139, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,139. Each application for a license to operate a school of cosmetology, or school of esthetics, ~~or~~ ~~school of electrology~~ shall be reviewed by the department for compliance with the requirements of the Nebraska Cosmetology Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application is accepted, the board and the department shall immediately conduct an accreditation inspection of the proposed school. A school passing the inspection shall be issued a license and may begin operation as soon as the inspection results are received. If the proposed school fails the inspection, the applicant shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days of receipt of evidence, the school does not receive a satisfactory rating, or if evidence is not received within fifteen days, the application may be denied.

Sec. 33. Section 71-3,140, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,140. In order to maintain its license in good standing, each school of cosmetology, or school of esthetics, ~~or~~ ~~school of electrology~~ shall operate in accordance with the following requirements:

(1) The school shall at all times comply with all applicable provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act;

(2) The school owner or owners or the authorized agent thereof shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least sixty days prior to closure, except in emergency circumstances as determined by the department;

(3) No school shall permit anyone other than a student, student instructor, instructor, or guest artist to perform any of the practices of cosmetology, or esthetics, ~~or~~ ~~electrology~~ within its confines or employ, except that such restriction shall not prevent a school from inviting guest teachers who are not licensed or registered to provide lectures to students or student instructors if the guest lecturer does not perform any of the practices of cosmetology, or esthetics; ~~or~~ ~~electrology~~;

(4) The school shall display a name upon or near the entrance door

designating it as a school of cosmetology, or a school of esthetics; ~~or a school of electrology;~~

(5) The school shall display in a conspicuous place within the clinic area a sign reading: All services in this school are performed by students who are training in cosmetology, or esthetics, ~~or electrology,~~ as applicable. A notice to such effect shall also appear in all advertising conducted by the school for its clinic services;

(6) The school shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the school without prior notice, and the owner or manager shall assist the inspector by providing access to all areas of the school, all personnel, and all records requested by the inspector;

(7) The school shall display in a conspicuous place the following records:

(a) The current license to operate a school of cosmetology, or school of esthetics; ~~or school of electrology;~~

(b) The current licenses or registrations of all persons, except students, employed by or working in the school; and

(c) The rating sheet from the most recent accreditation inspection;

(8) At no time shall a school enroll more students than permitted by the Nebraska Cosmetology Act or the rules and regulations adopted and promulgated under such act;

(9) The school shall not knowingly permit its students, employees, or clients to use, consume, serve, or in any other manner possess or distribute intoxicating beverages or controlled substances upon its premises during the hours the school is in operation;

(10) Food shall not be consumed in any area where cosmetology, or esthetics, ~~or electrology~~ services are being taught or performed or stored in the same area where chemical supplies or used equipment are stored;

(11) No instructor or student instructor shall perform, and no school shall permit such person to perform, any of the practices of cosmetology, or esthetics, ~~or electrology~~ on the public in a school of cosmetology, or school of esthetics, ~~or school of electrology~~ other than that part of the practical work which pertains directly to the teaching of practical subjects to students or student instructors and in no instance shall complete cosmetology, or esthetics, ~~or electrology~~ services be provided for a client unless done in a demonstration class of theoretical or practical studies;

(12) The school shall maintain space, staff, library, teaching apparatus, and equipment as established by rules and regulations adopted and promulgated under the Nebraska Cosmetology Act;

(13) The school shall keep a daily record of the attendance and clinical performance of each student and student instructor;

(14) The school shall maintain regular class and instructor hours and shall require the minimum curriculum;

(15) The school shall establish and maintain criteria and standards for student grading, evaluation, and performance and shall award a certificate or diploma to a student only upon completing a full course of study in compliance with such standards, except that no student shall receive such certificate or diploma until he or she has satisfied or made an agreement with the school to satisfy all outstanding financial obligations to the school;

(16) The school shall maintain on file the registrations of each student;

(17) The school shall submit a monthly report to the department, on forms established by the department, indicating the students and student instructors enrolled, the hours and credits earned, the instructors employed, the hours of operation, and such other pertinent information as the board and the department shall require. No hours or credits shall be allowed for any student unless such student is duly registered and the hours and credits are reported by the school; and

(18) The school shall print and provide to each student a copy of the school rules, which shall not be inconsistent with the Nebraska Cosmetology Act or with the rules and regulations adopted and promulgated under such act and which shall include policies of the school with respect to tuition, reimbursement, conduct, attendance, grading, earning of hours and credits, demerits, penalties, dismissal, graduation requirements, dress, and other information sufficient to advise the student of the standards he or she will be required to maintain. The board may review any school's rules to determine their consistency with the intent and content of the Nebraska Cosmetology Act and its rules and regulations and may overturn any rules found not to be in accord.

Sec. 34. Section 71-3,141, Reissue Revised Statutes of Nebraska, is

amended to read:

71-3,141. In order to maintain its license in good standing, each school of cosmetology, or school of esthetics, ~~or school of electrology~~ shall operate in accordance with the following requirements:

(1) All persons accepted for enrollment as students shall meet the qualifications established in section 71-3,102;

(2) The school shall submit a completed student entrance notification, including the student registration fee, on forms prescribed by the department, for each person enrolling in the school before such person may begin training;

(3) The school shall, at all times the school is in operation, have at least one instructor in the school for each six students or fraction thereof enrolled in the school, except (a) that freshman and advanced students shall be taught by different instructors in separate classes and (b) as provided in section 71-3,138.02;

(4) The school shall not permit any student to render clinical services on members of the public with or without fees until such student has satisfactorily completed the freshman curriculum, except that the board may establish guidelines by which it may approve such practices as part of the freshman curriculum;

(5) No school shall pay direct compensation to any of its students. Student instructors may be paid as determined by the school;

(6) All students and student instructors shall be under the supervision of an instructor at all times, except that students shall be under the direct supervision of an instructor or student instructor at all times when cosmetology, or esthetics, ~~or electrology~~ services are being taught or performed;

(7) Students shall be classified for reporting purposes as follows:

(a) A full-time student shall mean one who regularly trains at least eight hours a day during the normal school week, including normal excused absences as defined in the school rules; and

(b) A part-time student shall mean any student not classified as a full-time student;

(8) Students no longer attending the school shall be classified for reporting purposes as follows:

(a) A graduate shall mean a student who has completed his or her hours and credits, has satisfied all school requirements, and has been granted a certificate or diploma by the school;

(b) A transfer shall mean a student who has transferred to another school in Nebraska or in another state;

(c) A temporary drop shall mean a student who has stopped attending school for a period of less than three months and has given no indication that he or she intends to drop permanently; and

(d) A permanent drop shall mean a student who has stopped attending school for a period of three months or more or one who has stopped attending for a shorter time but has informed the school in writing of his or her intention to drop permanently;

(9) Once a student has been classified as a permanent drop, the department shall keep a record of his or her hours and credits for a period of two years from the last date upon which the student attended school. If, after two years, the student has not reenrolled in a school of cosmetology, or school of esthetics, ~~or school of electrology~~ in Nebraska or transferred his or her hours and credits to a school in another state, all hours and credits earned by the student shall be declared void;

(10) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and

(11) The school shall not credit a student or student instructor with hours and credits except when such hours and credits were earned in the study or practice of cosmetology, or esthetics, ~~or electrology~~ in accordance with the required curriculum. Hours and credits shall be credited on a daily basis. Once credited, hours or credits cannot be removed or disallowed except by the department upon a finding that the hours or credits have been wrongfully allowed.

Sec. 35. Section 71-3,145, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,145. Any student may appeal a determination of a school of cosmetology, or school of esthetics, ~~or school of electrology~~ regarding his or her transfer status, hours, or credits to the board.

Sec. 36. Section 71-3,147, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,147. (1) Each school license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal on December 31 of each

odd-numbered year. The procedure for renewing a school license shall be in accordance with section 71-110.01, except that in addition to all other requirements, the school of cosmetology, or school of esthetics, ~~or school of electrology~~ shall receive a satisfactory rating on an accreditation inspection conducted by the board and the department, in consultation with the State Department of Education, within the six months immediately prior to the date of license renewal.

(2) Any school of cosmetology, or school of esthetics, ~~or school of electrology~~ which has current accreditation from a national accrediting organization approved by the board shall be considered to satisfy the accreditation requirements outlined in this section, except that successful completion of an operation inspection shall be required. Each school of cosmetology, or school of esthetics, ~~or school of electrology,~~ whether or not it is nationally accredited, shall satisfy all curriculum and sanitation requirements outlined in the Nebraska Cosmetology Act to maintain its license.

(3) Any school not able to meet the requirements for license renewal shall have its license placed on inactive status until all deficiencies have been corrected, and the school shall not operate in any manner during the time its license is inactive. If the deficiencies are not corrected within six months of the date of license renewal, the license may be revoked unless the board approves an extension of the time limit. The license of a school that has been revoked or lapsed for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such school may reopen.

Sec. 37. Section 71-3,150, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,150. The owner of each school of cosmetology, or school of esthetics, ~~or school of electrology~~ shall have full responsibility for ensuring that the school is operated in compliance with all applicable laws and rules and regulations and shall be liable for any and all violations occurring in the school. Each school of cosmetology shall be operated by a manager who shall hold an active instructor's license and who shall be present on the premises of the school no less than thirty-five hours each week. ~~Each manager of a school of electrolysis shall hold an active electrology instructor's license and shall be present on the premises of the school no less than thirty-five hours each week.~~ Each manager of a school of esthetics shall hold an active esthetics instructor's license and shall be present on the premises of the school no less than thirty-five hours each week. The manager may have responsibility for the daily operation of the school or satellite classroom and, if so, shall share with the owner liability for any and all violations occurring in the satellite classroom.

Sec. 38. Section 71-3,169, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,169. (1) The department shall conduct inspections as required by the Nebraska Cosmetology Act. Two types of inspections shall be conducted which shall be known as operation inspections and accreditation inspections. An operation inspection shall be conducted to ascertain that an establishment is operating in full compliance with all laws, rules, and regulations. An accreditation inspection shall be conducted to accomplish the purposes of an operation inspection and to ascertain that a school of cosmetology, a nail technology school, a school of esthetics, a ~~school of electrology,~~ or an apprentice salon is maintaining academic standards and requirements of a quality consistent with the purpose of the Nebraska Cosmetology Act. All accreditation inspections shall be announced at least two weeks prior to the actual inspection.

(2) The board and the department shall adopt and promulgate rules and regulations governing the standards and criteria to be used in the conduct of inspections, the rating system to be used, and the level of achievement necessary to receive a passing grade.

(3) Operation inspections shall be unannounced and shall be conducted during the normal working hours of the establishment. The inspector shall make every effort to gather the information he or she needs to complete the operation inspection in an inconspicuous manner.

(4) At the conclusion of the inspection, the owner or manager of the establishment shall receive a copy of the rating form, which form shall be promptly displayed, and a verbal statement of any deficiencies noted.

Sec. 39. Section 71-3,177, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,177. Each of the following may be considered an act of unprofessional conduct when committed by a person licensed or registered under the Nebraska Cosmetology Act:

(1) Performing any of the practices of cosmetology, nail technology,

esthetics, or electrology for which an individual is not licensed or registered;

(2) Obstructing, interfering, or failing to cooperate with an inspection or investigation conducted by an authorized representative of the department when acting in accordance with the Nebraska Cosmetology Act;

(3) Failing to report to the department a suspected violation of the Nebraska Cosmetology Act;

(4) Aiding and abetting an individual to practice any of the practices of cosmetology, nail technology, esthetics, or electrology for which he or she is not licensed or registered;

(5) Engaging in any of the practices of cosmetology, nail technology, esthetics, or electrology for compensation in an unauthorized location;

(6) Engaging in the practice of any healing art or profession for which a license is required without holding such a license;

(7) Enrolling a student or an apprentice without submitting a complete student entrance notification to the department;

(8) Knowingly falsifying any student or apprentice record or report;

(9) Initiating or continuing home services to a client who does not meet the criteria established in the Nebraska Cosmetology Act;

(10) Knowingly issuing a certificate of completion or diploma to a student or an apprentice who has not completed all requirements for the issuance of such document;

(11) Failing, by a school of cosmetology, a nail technology school, ~~a school of electrology~~, a school of esthetics, or an apprentice salon, to follow its published rules;

(12) Violating, by a school of cosmetology, nail technology school, or school of esthetics, ~~or school of electrology~~, any federal or state law involving the operation of a vocational school or violating any federal or state law involving participation in any federal or state loan or grant program;

(13) Knowingly permitting any person under supervision to violate any law, rule, or regulation or knowingly permitting any establishment under supervision to operate in violation of any law, rule, or regulation;

(14) Receiving two unsatisfactory inspection reports within any sixty-day period; and

(15) Engaging in any of the practices of cosmetology, nail technology, esthetics, or electrology while afflicted with any active case of a serious contagious disease, infection, or infestation, as determined by the department, or in any other circumstances when such practice might be harmful to the health or safety of clients.

Sec. 40. Section 71-3,179, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,179. The department, with the assistance of the board, shall adopt and promulgate all rules, regulations, and guidelines necessary for the administration of the Nebraska Cosmetology Act. In particular, the department shall adopt and promulgate the following rules and regulations:

(1) Minimum standards governing licensure, license renewal, discipline of licensees, and license reinstatement;

(2) Operation of schools of cosmetology, nail technology schools, schools of esthetics, ~~schools of electrology~~, and apprentice salons, including standards and requirements governing application, curriculum, course of study, hours and credits, staff and faculty, student and nail technology student admission and registration, student instructor, nail technology student instructor, and apprentice admission and registration, instruction and supervision, textbooks, transfers, examinations, grading and evaluation, graduation requirements, records, reporting requirements, sanitation, attire, school and salon rules and policies, smoking, subject content, lesson plans, methods of counting and recording hours and credits, library facilities, space requirements, teaching equipment and apparatus, supplies, organization and administration, transfer of location, closing a school, change of ownership or location, scheduling of courses, class size, ratio of instructors, esthetics instructors, or nail technology instructors to students or nail technology students, clinical experience requirements and locations, inspections, license renewal procedures and requirements, and any other related areas;

(3) Minimum standards governing the licensure, license renewal, discipline of licensees, license reinstatement, and operation of satellite classrooms, including movement of students among satellite classrooms and home schools, location of records, ratio of students to instructors, inspections, reporting requirements, and any other related areas;

(4) Minimum standards governing the licensure, license renewal, discipline of licensees, license reinstatement, and operation of cosmetology

salons, nail technology salons, and esthetics salons, including standards and requirements governing space, facilities, equipment, hours of operation, cleanliness and sanitation, smoking, laundry, storage facilities, instruments, implements, materials and supplies, methods and particular aspects of sanitizing, pets, toilet facilities, water, client files, employment and supervision of temporary practitioners, practices permitted, application, inspection, sale or change of ownership, closing a salon, records, reporting requirements, license renewal standards and procedures, and any other related areas;

(5) Situations constituting a conflict of interest for board members and procedures for dealing with such situations;

(6) Procedures for the conduct and grading of examinations and performance standards for examinations;

(7) Minimum standards governing the licensure, license renewal, discipline of licensees, license reinstatement, and operation of cosmetic establishments including type and amount of instruction provided to cosmeticians or electrologists, safety and sanitary procedures and standards, application, inspection, reporting requirements, license renewal standards and procedures, and any other related areas;

(8) Minimum standards governing the registration, expiration, discipline, and practice of cosmeticians, nail technicians, electrologists, guest artists, nail technology students, nail technology student instructors, students, apprentices, student instructors, nail technology temporary practitioners, and temporary practitioners, including application, supervision, type of training received, locations of practice, reporting requirements, grounds for discipline, and any other related areas;

(9) Continuing competency requirements for persons licensed under the Nebraska Cosmetology Act as approved by the board under section 71-377;

(10) Criteria and standards to be used in the conduct of inspections and procedures to be used in the conduct of inspections and investigations, including rating systems, level of achievement necessary to receive a passing grade, conduct of inspections and investigations, and any other related areas;

(11) Minimum standards governing the granting, discipline of, and renewal of home services permits, nail technology home services permits, or home services permits for electrology and the provision of home services; and

(12) Acts constituting unprofessional conduct on the part of licensed and registered practitioners and licensed establishments and nail technology establishments.

Sec. 41. Section 71-401, Reissue Revised Statutes of Nebraska, is amended to read:

71-401. Sections 71-401 to ~~71-463~~ 71-459 shall be known and may be cited as the Health Care Facility Licensure Act.

Sec. 42. Section 71-409, Reissue Revised Statutes of Nebraska, is amended to read:

71-409. Critical access hospital means a facility (1) with ~~up to~~ ~~fifteen~~ acute care inpatient beds where care or treatment is provided on an outpatient basis or on an inpatient basis to persons for an average period of not more than ninety-six hours and emergency services are provided on a twenty-four-hour basis and (2) which has formal agreements with at least one hospital and other appropriate providers for services such as patient referral and transfer, communications systems, provision of emergency and nonemergency transportation, and backup medical and emergency services. A facility licensed as a critical access hospital as of January 1, 2004, shall have no more than twenty-five acute care inpatient beds, and any other facility licensed as a critical access hospital shall have no more than fifteen acute care inpatient beds.

Sec. 43. Section 71-428, Reissue Revised Statutes of Nebraska, is amended to read:

71-428. (1) Respite care service means a person or any legal entity that provides short-term temporary care on an intermittent basis to persons with special needs when the person's primary caregiver is unavailable to provide such care.

(2) Respite care service does not include:

(a) A person or any legal entity which is licensed under the Health Care Facility Licensure Act, and which provides respite care services at the licensed location;

(b) A person or legal entity which is licensed to provide child care to thirteen or more children under sections 71-1908 to 71-1917, or the Child Care Licensing Act or which is licensed as a group home or child-caring agency under sections 71-1901 to 71-1906.03;

~~(c)~~ (c) An agency that recruits, screens, or trains a person to provide respite care;



~~(e)~~ (d) An agency that matches a respite care service or other providers of respite care with a person with special needs, or refers a respite care service or other providers of respite care to a person with special needs, unless the agency receives compensation for such matching or referral from the service or provider or from or on behalf of the person with special needs;

~~(d)~~ (e) A person who provides respite care to fewer than eight unrelated persons in any seven-day period in his or her home or in the home of the recipient of the respite care; or

~~(e)~~ (f) A nonprofit agency that provides group respite care for no more than eight hours in any seven-day period.

Sec. 44. Section 71-448, Reissue Revised Statutes of Nebraska, is amended to read:

71-448. The department may take disciplinary action against a license issued under the Health Care Facility Licensure Act on any of the following grounds:

(1) Violation of any of the provisions of the Assisted-Living Facility Act, the Health Care Facility Licensure Act, the Nebraska Nursing Home Act, or the rules and regulations adopted and promulgated under such acts;

(2) Committing or permitting, aiding, or abetting the commission of any unlawful act;

(3) Conduct or practices detrimental to the health or safety of a person residing in, served by, or employed at the health care facility or health care service;

(4) A report from an accreditation body or public agency sanctioning, modifying, terminating, or withdrawing the accreditation or certification of the health care facility or health care service;

(5) Failure to allow an agent or employee of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure access to the health care facility or health care service for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of such departments;

(6) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has submitted a complaint or information to the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure;

(7) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has presented a grievance or information to the office of the state long-term care ombudsman;

(8) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the health care facility or health care service for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations adopted and promulgated by the Department of Health and Human Services;

(9) Violation of the Emergency Box Drug Act;

(10) Failure to file a report required by section 71-168.02;

(11) Violation of the Medication Aide Act; or

(12) Failure to file a report of suspected abuse or neglect as required by sections 28-372 and 28-711.

Sec. 45. Sections 45 to 52 of this act shall be known and may be cited as the Assisted-Living Facility Act.

Sec. 46. The purposes of the Assisted-Living Facility Act are to supplement provisions of the Health Care Facility Licensure Act relating to the licensure and regulation of assisted-living facilities and to provide for the health and safety of residents of such facilities.

Sec. 47. Section 71-460, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-460.~~ For purposes of ~~this section and section 71-461~~ the Assisted-Living Facility Act:

(1) Activities of daily living means transfer, ambulation, exercise, toileting, eating, ~~self-administered~~ self-administration of medication, and similar activities;

(2) Administrator means the operating officer of an assisted-living facility and includes a person with a title such as administrator, chief executive officer, manager, superintendent, director, or other similar designation;

(3) Assisted-living facility has the same meaning as in section

71-406;

~~(3)~~ (4) Authorized representative means (a) a person holding a durable power of attorney for health care, (b) a guardian, or (c) a person appointed by a court to manage the personal affairs of a resident of an assisted-living facility other than the facility;

(5) Chemical restraint means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms;

~~(4)~~ (6) Complex nursing interventions means interventions which require nursing judgment to safely alter standard procedures in accordance with the needs of the resident, which require nursing judgment to determine how to proceed from one step to the next, or which require a multidimensional application of the nursing process. Complex nursing interventions does not include a nursing assessment;

~~(5)~~ Designee means a person holding a durable power of attorney for health care, a guardian, or a person appointed by a court to manage the personal affairs of a resident of a facility other than the facility;

~~(6)~~ (7) Department means the Department of Health and Human Services Regulation and Licensure;

(8) Health maintenance activities means noncomplex interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and resident responses are predictable;

~~(7)~~ (9) Personal care means bathing, hair care, nail care, shaving, dressing, oral care, and similar activities;

~~(8)~~ (10) Physical restraint means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that he or she cannot remove easily and that restricts freedom of movement or normal access to his or her own body; and

~~(9)~~ (11) Stable or predictable means that a resident's clinical and behavioral status and nursing care needs are determined to be (a) nonfluctuating and consistent or (b) fluctuating in an expected manner with planned interventions, including an expected deteriorating condition.

Sec. 48. Section 71-461, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-461.~~ (1) Assisted living promotes resident self-direction and participation in decisions which emphasize independence, individuality, privacy, dignity, and residential surroundings.

~~(2) An assisted-living facility shall complete criminal background checks on each member of the direct care staff of the facility.~~

(3) To be eligible for admission to an assisted-living facility, a person shall be in need of or wish to have available room, board, assistance with or provision of personal care, activities of daily living, or health maintenance activities or supervision due to age, infirmity illness, or physical disability. The administrator of the facility shall have the discretion regarding admission or retention of residents subject to the Assisted-Living Facility Act and rules and regulations adopted and promulgated under the act. ~~provisions of this section. No assisted-living facility shall admit or retain an individual who requires complex nursing interventions or whose condition is not stable or predictable unless:~~

~~(a) The resident, if the resident has sufficient mental ability to understand the situation and make a rational decision as to his or her needs or care and is not a minor, the resident's designee, and the resident's physician or the registered nurse agree that admission or retention of the resident is appropriate;~~

~~(b) The resident or his or her designee is responsible for arranging for the resident's care through appropriate private duty personnel, a licensed home health agency, or a licensed hospice; and~~

~~(c) The resident's care does not compromise the facility operations or create a danger to others in the facility.~~

(4) An assisted-living facility shall assure that each resident does not require complex nursing interventions and that each resident is stable or predictable or is suitable for admission under subsection (3) of this section. All health maintenance activities shall be performed in accordance with the Nurse Practice Act and the rules and regulations adopted and promulgated under the act.

(5) Chemical and physical restraints are prohibited in an assisted-living facility.

(6) For purposes of the Life Safety Code under section 81-502, an assisted-living facility shall be classified as (a) residential board and care if the facility meets the residential board and care classification requirements of the Life Safety Code or (b) limited care if the facility meets the limited care classification requirements of the Life Safety Code.

Sec. 49. (1) An assisted-living facility shall not admit or retain a resident who requires complex nursing interventions or whose condition is not stable or predictable unless:

(a) The resident, if he or she is not a minor and is competent to make a rational decision as to his or her needs or care, or his or her authorized representative, and his or her physician or a registered nurse agree that admission or retention of the resident is appropriate;

(b) The resident or his or her authorized representative agrees to arrange for the care of the resident through appropriate private duty personnel, a licensed home health agency, or a licensed hospice; and

(c) The resident's care does not compromise the facility operations or create a danger to others in the facility.

(2) Health maintenance activities at an assisted-living facility shall be performed in accordance with the Nurse Practice Act and the rules and regulations adopted and promulgated under the act.

Sec. 50. (1) On and after the operative date of this section, every person seeking admission to an assisted-living facility or the authorized representative of such person shall, upon admission and annually thereafter, provide the facility with a list of drugs, devices, biologicals, and supplements being taken or being used by the person, including dosage, instructions for use, and reported use.

(2) Every person residing in an assisted-living facility on the operative date of this section or the authorized representative of such person shall, within sixty days after the operative date of this section, and annually thereafter, provide the facility with a list of drugs, devices, biologicals, and supplements being taken or being used by such person, including dosage, instructions for use, and reported use.

(3) An assisted-living facility shall not be subject to disciplinary action by the department for the failure of any person seeking admission to or residing at such facility or the authorized representative of such person to comply with subsections (1) and (2) of this section.

(4) Each assisted-living facility shall provide for a registered nurse to review medication administration policies and procedures and to be responsible for the training of medication aides at such facility.

Sec. 51. For purposes of the Life Safety Code under section 81-502, an assisted-living facility shall be classified as (1) residential board and care if the facility meets the residential board and care classification requirements of the Life Safety Code or (2) limited care if the facility meets the limited care classification requirements of the Life Safety Code.

Sec. 52. The department shall adopt and promulgate rules and regulations necessary to carry out the Assisted-Living Facility Act, including, but not limited to, rules and regulations which:

(1) Prohibit the use of chemical or physical restraints at an assisted-living facility;

(2) Require that a criminal background check be conducted on all persons employed as direct care staff at an assisted-living facility;

(3) Establish initial and ongoing training requirements for administrators and approved curriculum for such training. Such requirements shall consist of thirty hours of initial training, including, but not limited to, training in resident care and services, social services, financial management, administration, gerontology, and rules, regulations, and standards relating to the operation of an assisted-living facility. The department may waive initial training requirements established under this subdivision for persons employed as administrators of assisted-living facilities on the operative date of this section upon application to the department and documentation of equivalent training or experience satisfactory to the department. Training requirements established under this subdivision shall not apply to an administrator who is also a nursing home administrator or a hospital administrator; and

(4) Provide for acceptance of accreditation by a recognized independent accreditation body or public agency, which has standards that are at least as stringent as those of the State of Nebraska, as evidence that the assisted-living facility complies with rules and regulations adopted and promulgated under the Assisted-Living Facility Act.

Sec. 53. Section 71-501, Reissue Revised Statutes of Nebraska, is amended to read:

71-501. The county boards of the counties (1) The local public health department as defined in section 71-1626 or the county board of a county that has not established or joined in the establishment of a local public health department shall make and enforce regulations to prevent the introduction and spread of contagious, infectious, and malignant diseases in their respective counties. To that end a board of health shall be created,

the county or counties under its jurisdiction.

(2) The county board of a county that has not established or joined in the establishment of a local public health department shall establish a county board of health consisting of three members: The sheriff, who shall be chairperson and quarantine officer; a physician who resides permanently in the county, but if the county has no resident physician, then one conveniently situated, who shall be medical adviser, and who shall be chosen by the ~~board of county commissioners or supervisors~~ county board; and the county clerk, who shall be secretary. The county board may pay the chairperson of the county board of health a salary for such services not to exceed fifty dollars per month, as fixed by the county board. ~~The board~~

(3) The local public health department or the county board of health shall make rules and regulations to safeguard the health of the people and prevent nuisances and insanitary conditions and shall enforce the same throughout all the territory comprising such county, except incorporated cities and villages, and provide penalties for the violation thereof. If the board of health and provide penalties for the violation of such rules and regulations for the county or counties under its jurisdiction except for incorporated cities and villages. If the local public health department or the county board of health fails to enact such rules and regulations, as herein provided, it shall enforce the rules and regulations adopted and promulgated by the Department of Health and Human Services Regulation and Licensure.

Sec. 54. Section 71-542, Reissue Revised Statutes of Nebraska, is amended to read:

71-542. (1) Immunization information which is not restricted under section 71-540 concerning children enrolled in a child care program licensed pursuant to ~~sections 71-1908 to 71-1917~~ the Child Care Licensing Act, a school, or a postsecondary educational institution may be accessed by the ~~licensed child care program, school, or institution of higher education~~ from any of the persons or entities described in section 71-541, subject to security provisions to be set by rule and regulation as provided in section 71-543. Such immunization information is limited to the child's name, date of birth, immunization provider, and all dates of immunization by vaccine type documented in the immunization information. The access to immunization information by such a licensed ~~child care program, school, or a postsecondary educational~~ institution under this section does not change a parent's or legal guardian's right to access medical information about his or her child or ward.

(2) Immunization information received under this section is confidential, except that a child's immunization information received under this section may be disclosed to the child's parents or legal guardian. Unauthorized public disclosure of such confidential information by an individual or an officer or employee of a child care program licensed pursuant to ~~sections 71-1908 to 71-1917~~ the Child Care Licensing Act, a school, or ~~an a postsecondary educational institution of higher education~~ is a Class III misdemeanor.

(3) The person or entity described in section 71-541 which provides immunization information to a licensed child care program, a school, or a postsecondary educational institution in accordance with this section may charge a reasonable fee to recover the cost of providing such immunization information.

Sec. 55. Section 71-604.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-604.05. (1) The Department of Health and Human Services Finance and Support shall not file (a) a certificate of live birth, (b) a certificate of delayed birth registration for a registrant who is under twenty-five years of age when an application for such certificate is filed, (c) a certificate of live birth filed after adoption of a Nebraska-born person who is under twenty-five years of age or a person born outside of the jurisdiction of the United States, or (d) a certificate of live birth issued pursuant to section 71-628 unless the social security number or numbers issued to the parents are furnished by the person seeking to register the birth. No such certificate may be amended to show paternity unless the social security number of the father is furnished by the person requesting the amendment. The social security number shall not be required if no social security number has been issued to the parent or if the social security number is unknown.

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

shall make social security numbers available to the Department of Health and Human Services for purposes permitted under Title IV-D of the federal Social Security Act, as amended.

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

(4) The Department of Health and Human Services Finance and Support shall provide to the Social Security Administration each parent's name and social security number collected in the birth certification process as required by the federal Taxpayer Relief Act of 1997.

Sec. 56. Section 71-612, Reissue Revised Statutes of Nebraska, is amended to read:

71-612. (1) The Director of Finance and Support, as the State Registrar, through the Department of Health and Human Services Finance and Support 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 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 ~~(a) nine dollars until July 17, 1999, and (b) seven dollars on and after July 17, 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 and Human Services Finance and Support 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 Finance and Support it would be a hardship for the claimant of old age, survivors, or disability benefits under the federal 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~~ Funds received pursuant to subsections (1), (5), (6), and (8) of this section shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support 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 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 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 under this subsection shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention 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. 57. Section 71-617.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.05. Each application for a certificate of delayed birth registration shall be accompanied by the ~~application fee~~ fees required by subsection (1) of section 71-617.15 and three independent supporting records as provided in section 71-617.06, only one of which may be an affidavit of personal recollection from a person at least five years older than the applicant and having a personal knowledge of the facts at the time of birth. Any evidence used shall relate to the date and place of birth and at least one item of documentary evidence shall correctly establish parentage.

Sec. 58. Section 71-617.15, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.15. (1) The Department of Health and Human Services Finance and Support shall ~~charge and~~ collect a fee of ~~(1) nine dollars until July 17, 1999, and (2) seven dollars on and after July 17, 1999, for each when an application for a delayed birth certificate application when submitted is filed. 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 Finance and Support.~~ All such fees shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund, as provided in section 71-612. The department shall charge and collect an additional fee of one dollar ~~for each when a~~ delayed birth certificate is issued. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(2) Upon request and payment of the fees required by section 71-612, a certified copy of a delayed birth certificate shall be furnished by the Director of Finance and Support. All fees for a certified copy shall be handled as provided in section 71-612.

Sec. 59. Section 71-627, Reissue Revised Statutes of Nebraska, is amended to read:

71-627. (1) The certificate of birth of adopted children shall be filed as other certificates of birth. There shall be a fee of ~~(1) nine dollars until July 17, 1999, and (2) seven dollars on and after July 17, 1999,~~ charged for each certificate filed. All such fees shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund, as provided in section 71-612. ~~Upon request and the payment of the fee prescribed by section 71-612, a certified copy of such a certificate may be furnished by the Director of Finance and Support.~~ The department shall charge and collect an additional fee of one dollar for each certificate ~~furnished~~ issued. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(2) Upon request and payment of the fees required by section 71-612, a certified copy of an adoptive birth certificate shall be furnished by the Director of Finance and Support. All fees for a certified copy shall be handled as provided in section 71-612.

Sec. 60. Section 71-628, Reissue Revised Statutes of Nebraska, 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 Department of Health and Human Services Finance and Support, 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 ~~(1) nine dollars until July 1, 1999, and (2) seven dollars.~~ All such fees shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund. ~~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~~ filed. ~~The fees collected~~ All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

Sec. 61. Section 71-634, Reissue Revised Statutes of Nebraska, is amended to read:

71-634. The Department of Health and Human Services Finance and Support shall charge and collect a fee of ~~(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 and Human Services Finance and Support Cash Fund. The department shall collect the fees required by section 71-612 for a certified copy of the amended record. All fees for a certified copy shall be handled as provided in section 71-612.

If a certificate is amended pursuant to sections 71-630 and 71-635 to 71-644 as the result of an error committed by the department in the issuance of such certificate, the department may waive any fee required under this section.

Sec. 62. Section 71-1626, Reissue Revised Statutes of Nebraska, is amended to read:

71-1626. For purposes of sections 71-1626 to 71-1636:

(1) Core public health functions means assessment, policy development, and assurance designed to protect and improve the health of persons within a geographically defined community by (a) emphasizing services to prevent illness, disease, and disability, (b) promoting effective coordination and use of community resources, and (c) extending health services into the community, including public health nursing, disease prevention and control, public health education, and environmental health services;

(2) County, district, or city-county health department means a governmental entity approved by the Department of Health and Human Services Regulation and Licensure as a state-approved local full-time public health service which (a) ~~utilizing~~ utilizes local, state, federal, and other funds or any combination thereof, (b) ~~employing~~ employs qualified public health medical, nursing, environmental health, health education, and other essential personnel who work under the direction and supervision of a full-time qualified medical director or of a full-time qualified lay administrator, ~~are well-trained in public health work,~~ and are assisted at least part time by at least one medical consultant who shall be a licensed physician, and (c) ~~conducted~~ is operated in conformity with the rules, regulations, and policies of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support. The medical director or lay administrator shall be called the health director; and

(3) Local public health department means a county, district, or city-county health department.

Sec. 63. Section 71-1628.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-1628.04. (1) Each local public health department shall carry out the core public health functions within its geographically defined community.

(2) Each local public health department shall include the essential elements in carrying out the core public health functions to the extent applicable within its geographically defined community and to the extent funds are available. The essential elements include, but are not limited to, (a) monitoring health status to identify community health problems, (b) diagnosing and investigating health problems and health hazards in the community, (c) informing, educating, and empowering people about health issues, (d) mobilizing community partnerships to identify and solve health problems, (e) developing policies and rules that support individual and community health efforts, (f) enforcing laws, rules, and regulations that protect public health

and the environment and ensure safety, (g) linking people to needed medical and mental health services and assuring the provision of health care when not otherwise available, (h) assuring a competent workforce within the health care industry and the public health departments, (i) evaluating effectiveness, accessibility, and quality of services within the health care industry and the public health departments, and (j) researching to gain new insights and innovative solutions to health problems.

(3) Any department or agency of the State of Nebraska may contract with a local public health department for the performance of public health administration or other functions at the discretion of and under the direction of such state department or agency.

Sec. 64. Section 71-1628.08, Reissue Revised Statutes of Nebraska, is amended to read:

71-1628.08. (1) The County Public Health Aid Program is created. Aid as appropriated by the Legislature from the Nebraska Health Care Cash Fund shall be distributed in each fiscal year as provided in this section.

(2) Of funds appropriated by the Legislature under subsection (1) of this section, the following amounts shall be distributed to local public health departments established under sections 71-1626 to 71-1636:

(a) One hundred thousand dollars to each local public health department established by at least three contiguous counties with a total population of at least thirty thousand and not more than fifty thousand persons;

(b) One hundred twenty-five thousand dollars to each local public health department established by ~~one or more~~ a single county with a total population of more than fifty thousand and not more than one hundred thousand persons, with or without additional counties as part of the department, or by at least three contiguous counties with a total population of more than fifty thousand and not more than one hundred thousand persons; and

(c) One hundred fifty thousand dollars to each local public health department established by one or more counties with a total population of more than one hundred thousand persons.

(3) Any appropriated funds not distributed under subsection (2) of this section shall be allocated among all counties on a per capita basis as determined by the most recent federal decennial census. The funds allocated for each county shall be distributed to the local public health department which is established by the such county and receiving funding under subsection (2) of this section. ~~Any appropriated funds that are not distributed under this subsection in any fiscal year shall not be reappropriated under this section.~~ Any funds not distributed under this subsection shall be equally distributed among all local public health departments receiving funding under subsection (2) of this section.

(4) Funds appropriated under this section shall not be used to replace ~~or reduce~~ any existing county funding to any local public health department. Funding for any local public health department under this section shall be reduced to offset any such replacement. ~~or reduction.~~

Sec. 65. Section 71-1636, Reissue Revised Statutes of Nebraska, is amended to read:

71-1636. ~~Any section, clause, phrase or requirement heretofore mentioned in sections~~ Sections 71-1626 to 71-1636 shall do not apply to any school district in the State of Nebraska, except that any school district, upon application to a county, district, or city-county health department formed under ~~said~~ such sections, may accept in whole or in part any of the provisions of ~~said~~ such sections, by entering into an agreement for that purpose with such health ~~district~~ department.

Sec. 66. Section 71-1903, Reissue Revised Statutes of Nebraska, is amended to read:

71-1903. (1) Before issuance of a license under sections 71-1901 to 71-1906.01, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the service and the place where the foster care is to be furnished are such as to ensure the proper care and treatment of children. ~~The department may investigate the character of prospective or existing licensees, any member of such licensee's household, and the staff and employees of foster care facilities by making a national criminal history record information check.~~ The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01, payable by the licensee or applicant for a license, except that the department may pay the fee for inspection for fire safety of foster family homes as defined in section 71-1902. The department may request the Department of Health and Human Services Regulation



and Licensure to conduct sanitation and health standards investigations pursuant to subsection (2) of this section. The Department of Health and Human Services may also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing foster care to see that such service is being properly conducted.

(2) The Department of Health and Human Services Regulation and Licensure shall make an investigation and report to the Department of Health and Human Services, within thirty days after receipt of the request from the Department of Health and Human Services, of all facilities and programs of licensed providers of foster care programs subject to this section or applicants for licenses to provide such programs to determine if the place or places to be covered by such licenses meet standards of health and sanitation set by the Department of Health and Human Services for the care and protection of the child or children who may be placed in such facilities and programs. The Department of Health and Human Services Regulation and Licensure may delegate the investigation authority to qualified local environmental health personnel.

(3) Before the foster care placement of any child in Nebraska by the Department of Health and Human Services on and after the operative date of this section, the department shall require a national criminal history record information check of the prospective foster parent of such child and each member of such prospective foster parent's household who is eighteen years of age or older. The department shall provide two sets of legible fingerprints for such persons to the Nebraska State Patrol for submission to the Federal Bureau of Investigation. The Nebraska State Patrol shall conduct a criminal history record information check of such persons and shall submit such fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information from federal repositories of such information and repositories of such information in other states if authorized by federal law. The Nebraska State Patrol shall issue a report of the results of such criminal history record information check to the department. The department shall pay a fee to the Nebraska State Patrol for conducting such check. Information received from the criminal history record information check required under this subsection shall be used solely for the purpose of evaluating and confirming information provided by such persons for providing foster care or for the finalization of an adoption. A child may be placed in foster care by the department prior to the completion of a criminal history record information check under this subsection in emergency situations as determined by the department.

Sec. 67. Section 71-1908, Reissue Revised Statutes of Nebraska, is amended to read:

71-1908. (1) Sections 71-1908 to 71-1917 and sections 71 and 81 to 86 of this act shall be known and may be cited as the Child Care Licensing Act.

(2) The Legislature finds that there is a present and growing need for quality child care programs and facilities. There is a need to establish and maintain licensure of ~~providers of all persons providing~~ such programs to ensure that ~~providers~~ such persons are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on ~~providers of programs~~ licensees, and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

Sec. 68. Section 71-1909, Reissue Revised Statutes of Nebraska, is amended to read:

71-1909. (1) The purposes of ~~sections 71-1908 to 71-1917~~ the Child Care Licensing Act are to provide:

(a) Statewide ~~licensing of providers of~~ licensure standards for persons providing child care programs; and

(b) The Department of Health and Human Services Regulation and Licensure with authority to coordinate the ~~imposition~~ enforcement of standards on ~~providers of programs~~ licensees.

(2) It is the intent of the Legislature that the licensing and regulation of programs under ~~such sections~~ the act exist for the protection of children and to assist parents in making informed decisions concerning enrollment and care of their children in such programs.

Sec. 69. Section 71-1910, Reissue Revised Statutes of Nebraska, is amended to read:

71-1910. For purposes of ~~sections 71-1908 to 71-1917~~ the Child Care

Licensing Act, unless the context otherwise requires:

(1) Department means the Department of Health and Human Services Regulation and Licensure;

(2) Director means the Director of Regulation and Licensure; and

(3) (a) Program means the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and includes any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-1104, or preschool or nursery school.

(b) Program does not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-318, or foster care as defined in section 71-1901. ~~The State Board of Education may adopt and promulgate rules and regulations which shall apply to any program and any school-age care program operated or contracted by a public school district.~~

Sec. 70. Section 71-1911, Reissue Revised Statutes of Nebraska, is amended to read:

71-1911. (1) A person may ~~furnish a program~~ operate child care for three or ~~less fewer~~ children without having a license issued by the department. A person who is not required to be licensed may choose to apply for a license and, upon obtaining a license, shall be subject to the Child Care Licensing Act. A person who ~~except that if such person~~ has had a license issued pursuant to subsection (2) of this section and ~~such license~~ has been had such license suspended or revoked ~~pursuant to section 71-1915, such person~~ other than for nonpayment of fees shall not ~~furnish operate~~ a program for three or ~~less fewer~~ children until the person is licensed pursuant to this section.

(2) No person shall ~~furnish operate~~ or offer to ~~furnish operate~~ a program for four or more children under his or her direct supervision, care, and control at any one time from families other than that of ~~the provider~~ such person without having in full force and effect a written license issued by the department upon such terms as may be prescribed by the rules and regulations adopted and promulgated by the department. ~~If the applicant is an individual, the application for a license shall include the applicant's social security number.~~ The license may be a provisional license, ~~a probationary license,~~ or an operating license. A city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs ~~furnished operating~~ for two or three children from different families may continue to license ~~providers of persons providing~~ such programs. If the license of a person is suspended or revoked ~~pursuant to section 71-1915~~ other than for nonpayment of fees, such person shall not be licensed by any city, village, or county rules, regulations, or ordinances until the person is licensed pursuant to this section. ~~Any provider not covered by sections 71-1908 to 71-1917 may voluntarily subject himself, herself, or itself to coverage.~~

(3) A provisional license shall be issued to all applicants following the completion of preservice orientation training approved or delivered by the department for the first year of operation. At the end of one year of operation, the department shall either issue an operating license, ~~extend the provisional license, or deny the operating or renew or refuse to renew the provisional license.~~ The provisional license may be ~~renewed once if the department determines that~~ extended once for a period of no more than six months. The decision regarding extension of the provisional license is not appealable. The provisional license may be extended if:

(a) A licensee is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;

(b) The effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the department which is to be completed within the renewal period.

(4) The department may issue a probationary license to a licensee holding an place a provisional or operating license on corrective action status. Corrective action status is voluntary and may be in effect for up to six months. The decision regarding placement on corrective action status is not a disciplinary action and is not appealable. If the written plan of correction is not approved by the department, the department may discipline the license. A probationary license may be issued for the licensee to operate

under corrective action status if the department determines that:

(a) A The licensee is unable to comply with all licensure requirements and standards or has had a history of noncompliance;

(b) The effect of noncompliance with any rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the department.

(5) Operating licenses issued under sections 71-1908 to 71-1917 the Child Care Licensing Act shall remain in full force and effect subject to annual inspections and maintenance of complaint tracking fees. The department may amend a license upon change of ownership or location. Amending a license requires a site inspection by the department at the time of amendment, except that for amendment of a family child care home I license, for which an inspection shall occur within sixty days. When a program is to be permanently closed, the licensee shall return the license to the department within one week after the closing.

(6) The license, including any applicable status or amendment, shall be displayed by the licensee in a prominent place so that it is clearly visible to parents and others. License record information and inspection reports shall be made available by the licensee for public inspection upon request. There shall be a twenty-five-dollar fee charged for the issuance of each license for providers with a licensing capacity of less than thirty children and a fifty-dollar fee charged for the issuance of each license for providers with a licensing capacity of thirty or more children. An annual license fee of twenty-five dollars shall be paid by providers with a licensing capacity of less than thirty children and an annual license fee of fifty dollars shall be paid by providers with a licensing capacity of thirty or more children. The license fee shall be paid to the department which shall retain the fee, except that when a city, village, or county has adopted any rule, regulation, or ordinance which establishes standards for licensed providers pursuant to subsection (2) of section 71-1914 and conducts all necessary inspections of any licensed provider pursuant to such subsection, the department shall transmit the fees paid by such provider to the city, village, or county conducting the inspections.

(7) On and after July 1, 1999, no license shall be issued to any person if the applicant plans to provide medication unless the applicant complies with the requirements of the Medication Aide Act.

(8) A license may be denied for cause, after notice and hearing, in accordance with such rules and regulations as may be adopted and promulgated by the department. A person who has had a license revoked pursuant to section 71-1915 shall not be eligible to reapply for a license for a period of two years.

(9) A license shall be denied or revoked if an applicant or licensee has been found guilty of a crime involving the neglect, physical abuse, or sexual abuse of a child or an adult.

Sec. 71. (1) An applicant for a license to operate a program required to be licensed under the Child Care Licensing Act shall file a written application with the department. The application shall be accompanied by the license fee pursuant to section 71-1911.01 and shall set forth the full name and address of the program to be licensed, the full name and address of the owner of such program, the names of all household members if the program is located in a residence, the names of all persons in control of the program, and additional information as required by the department, including affirmative evidence of the applicant's ability to comply with rules and regulations adopted and promulgated under the act. The application shall include the applicant's social security number if the applicant is an individual. The social security number shall not be public record and may only be used for administrative purposes.

(2) The application shall be signed by (a) the owner, if the applicant is an individual or partnership, (b) two of its members, if the applicant is a limited liability company, or (c) two of its officers, if the applicant is a corporation.

Sec. 72. Section 71-1911.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1911.01. (1) For a license to operate a program for fewer than thirty children, each applicant for a license and each licensee shall pay to the department, at the time of initial application and annually thereafter, a license fee of twenty-five dollars.

(2) For a license to operate a program for thirty or more children, each applicant for a license and each licensee shall pay to the department, at the time of initial application and annually thereafter, a license fee of

fifty dollars.

(3) If the department denies an application for a license and has not completed an inspection prior to such denial, the department shall return the license fee to the applicant. ~~The provisional, probationary, or operating license issued pursuant to section 71-1911 shall be displayed by the licensee in a prominent place so that it is clearly visible to parents and others.~~

Sec. 73. Section 71-1912, Reissue Revised Statutes of Nebraska, is amended to read:

71-1912. (1) ~~Except as provided in section 71-1910, the department shall adopt and promulgate rules and regulations establishing standards for the physical well-being, safety, and protection of children pursuant to the licensing of providers. Such standards shall insure that the provider of a program is providing proper care for and treatment of the children served and that such care and treatment is consistent with the children's physical well-being, safety, and protection. Such standards shall not require the use of any specific instructional materials or affect the contents of any course of instruction which may be offered by a program. Before issuance of a license, the department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the department adopted and promulgated under the Child Care Licensing Act. The department may investigate the character of prospective or existing applicants and licensees, any member of the applicant's or licensee's household, and the staff and employees of programs by making a national criminal history record information check. The department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.~~

(2) All inspections by the department shall be unannounced except for initial ~~licensing~~ licensure visits and consultation visits. Initial ~~licensing~~ licensure visits are announced visits necessary for a provisional license to be issued to a family child care home II, child care center, or preschool program. Consultation visits are announced visits made at the request of a ~~provider~~ licensee for the purpose of consulting with a department specialist on ways of improving the program.

(3) An unannounced inspection of any place where a program is operating shall be conducted by the department or the city, village, or county pursuant to subsection (2) of section 71-1914 at least annually for a program ~~with a licensing capacity of less licensed to provide child care for fewer than thirty children and at least twice every year for a program with a licensing capacity of more than~~ licensed to provide child care for thirty or more children.

(4) Whenever an inspection is made, the findings shall be recorded in a report designated by the department. The public shall have access to the results of these inspections upon a written or oral request to the department. The request must include the name and address of the program. Additional unannounced inspections shall be performed as often as is necessary for the efficient and effective enforcement of ~~sections 71-1908 to 71-1917~~ the Child Care Licensing Act.

~~(2) The rules and regulations adopted and promulgated pursuant to subsection (1) of this section shall contain provisions which encourage the involvement of parents in child care for their children and insure the availability, accessibility, and high quality of services for children in family child care homes. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act, except that the department shall hold a public hearing in each geographic area of the state prior to the adoption, amendment, or repeal of any rule or regulation.~~

Sec. 74. Section 71-1914, Reissue Revised Statutes of Nebraska, is amended to read:

71-1914. (1) The department shall be the state's coordinating agency for ~~regulating~~ licensure and regulation of programs in this state in order to (a) provide efficient services pursuant to ~~sections 71-1908 to 71-1917~~ the Child Care Licensing Act, (b) avoid duplication of services, and (c) prevent an unnecessary number of inspections of any program. The department may request cooperation and assistance from local and state agencies and such agencies shall promptly respond. The extent of an agency's cooperation may be included in the report to the Legislature pursuant to section 71-1917.

(2) A city, village, or county may adopt rules, regulations, or ordinances establishing physical well-being and safety standards for ~~providers of programs whether or not such providers~~ the persons providing such programs are subject to licensure under section 71-1911. ~~If a city, village, or county~~

adopts any rules, regulations, or ordinances establishing physical well-being and safety standards for providers subject to licensure under section 71-1911, (a) such Such rules, regulations, or ordinances shall be identical to as stringent as or more stringent than the department's rules and regulations for licensed providers licensees pursuant to the Child Care Licensing Act, sections 71-1908 to 71-1917, except that a city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs, and (b) the The city, village, or county adopting such rules, regulations, or ordinances and the department shall coordinate the inspection and supervision of licensed providers licensees to avoid duplication of inspections. If the applicant is an individual, the application form for providers of such programs shall include the applicant's social security number. A city, village, or county shall report any violation of its such rules, regulations, or ordinances regulating providers subject to licensure to the director, who may cause a written charge to be brought pursuant to section 71-1915. The city, village, or county may administer and enforce its such rules, regulations, and ordinances. Enforcement of provisions of the Child Care Licensing Act or rules or regulations adopted and promulgated under the act establishing physical well-being and safety standards for providers of programs, except that the exclusive sanction for the violation of any rules, regulations, and ordinances regulating providers subject to licensure pursuant to section 71-1911 shall be by the department pursuant to section 71-1915 sections 82 to 86 of this act.

Sec. 75. Section 71-1914.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1914.01. When the department receives a complaint of allegedly improper unlicensed care, the department shall investigate the claim and shall go to the premises of the alleged unlicensed program to ascertain if child care is being provided there which must be licensed according to sections 71-1908 to 71-1911 the Child Care Licensing Act. If unlicensed child care is occurring in violation of such sections the act, the individual person providing the unlicensed care shall have thirty days to either become licensed or cease providing unlicensed child care. The department shall visit the program again after such thirty-day period. If the individual person has not initiated action to become licensed or ceased providing unlicensed child care, the department may involve law enforcement and may proceed under sections 71-1914.02 and 71-1914.03.

Sec. 76. Section 71-1914.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-1914.02. The department may apply for a restraining order or a temporary or permanent injunction against any person violating sections 71-1908 to 71-1911 the Child Care Licensing Act by providing unlicensed child care when a license is required. The district court of the county where the violation is occurring shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

Sec. 77. Section 71-1914.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-1914.03. (1) Any person violating sections 71-1908 to 71-1911 the Child Care Licensing Act by providing unlicensed child care when a license is required is guilty of a Class IV misdemeanor. Each day the violation continues shall be a separate offense.

(2) The county attorney of the county in which any provision of unlicensed child care in violation of sections 71-1908 to 71-1911 the act is occurring shall, when notified of such violation by the department or a law enforcement agency, cause appropriate proceedings under subsection (1) of this section to be instituted and pursued in a court of competent jurisdiction.

Sec. 78. Section 71-1915, Reissue Revised Statutes of Nebraska, is amended to read:

71-1915. ~~(1)~~ Whenever the department has reason to believe that a violation of any provision of sections 71-1908 to 71-1914 or of any rule, regulation, or order of the department has occurred, a written charge may be served upon each alleged violator by the department. The charge shall specify the provision of sections 71-1908 to 71-1914 or the rule, regulation, or order alleged to be violated and the facts alleged to constitute a violation of such section, rule, regulation, or order. The department shall provide for notice and, if requested by the alleged violator, a full and fair hearing at which each alleged violator shall answer the charges. The notice shall be delivered to each alleged violator by personal service, by certified or registered mail to his or her last known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be

effectuated. The alleged violator may request a hearing, and the request shall be made within ten days following delivery of the notice. Following the hearing, if held, or within fifteen days after delivery of the notice if no hearing is held, the director shall determine whether the charges are true or not or whether periodic review or inspection by the department indicates that insufficient progress has been made toward compliance by a provisional or probationary licensee. If the director determines that the charges are true or that periodic review or inspection by the department indicates that insufficient progress has been made toward compliance by a provisional or probationary licensee, the director may issue a declaratory order stating such finding and (a) revoke or suspend the provisional, probationary, or operating license, (b) issue a probationary license if the determinations of subsection (4) of section 71-1911 are applicable, (c) impose a civil penalty of up to five dollars per child based upon the license capacity of the program on the effective date of the finding of violation, for each day the program is in violation, (d) establish restrictions on new enrollment in the program, or (e) establish other limitations on the license of the licensee. The department may choose not to accept a voluntary surrender of the license of the licensee during an investigation and may proceed with a revocation or other disciplinary action. If the department has initiated a disciplinary action, (i) such action may continue to finality even if the license of the licensee has been surrendered, (ii) household members of the licensee or current staff members of such licensee shall not become the licensee of the program while such action is pending, and (iii) the department may choose not to accept voluntary surrender of the license of the licensee during the investigation.

(2) Any civil penalty assessed and unpaid under subsection (1) of 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 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.

(3) (1) Whenever the director finds that an emergency exists requiring immediate action to protect the physical well-being and safety of a child in a program, the director may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (1) of this section, such order The order may include an immediate prohibition on the care of children by the licensee other than children of the licensee. An order under this subsection shall be effective immediately. Any person to whom the order is directed shall comply immediately, ~~except that~~ and upon application to the director, the person shall be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing the director shall continue to enforce his or her order or ~~revoke~~ rescind or modify it.

(4) In addition to the powers provided to the director in this section, ~~he or she~~ (2) The director may petition the appropriate district court for an injunction whenever he or she believes that any person is violating any provision of sections 71-1908 to 71-1917 the Child Care Licensing Act, an order issued pursuant to the act, or any rule, or regulation, or order adopted and promulgated pursuant to such sections the act. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to ensure compliance with such sections the act, rules, regulations, and orders.

Sec. 79. Section 71-1916, Reissue Revised Statutes of Nebraska, is amended to read:

71-1916. (1) The department shall adopt and promulgate such rules and regulations, consistent with sections 71-1908 to 71-1915 the Child Care Licensing Act, as it shall deem necessary for ~~(1) (a) the proper care and protection of children by providers in programs regulated under such sections the act, (2) (b) the issuance and discipline of licenses, for program providers, and (3) (c) the proper administration of such sections the act.~~

(2) The department shall adopt and promulgate rules and regulations establishing standards for the physical well-being, safety, and protection of children in programs licensed under the Child Care Licensing Act. Such standards shall insure that the program is providing proper care for and treatment of the children served and that such care and treatment is consistent with the children's physical well-being, safety, and protection. Such standards shall not require the use of any specific instructional materials or affect the contents of any course of instruction which may be offered by a program. The rules and regulations shall contain provisions which encourage the involvement of parents in child care for their children

and insure the availability, accessibility, and high quality of services for children.

(3) The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act, except that the department shall hold a public hearing in each geographic area of the state prior to the adoption, amendment, or repeal of any rule or regulation.

(4) The rules and regulations applicable to programs required to be licensed under the Child Care Licensing Act do not apply to any program operated or contracted by a public school district and subject to the rules and regulations of the State Department of Education as provided in section 79-1104.

(5) Contested Hearings conducted by the department pursuant to section 71-1915 and any other contested cases of the department under the Child Care Licensing Act shall be in accordance with the Administrative Procedure Act. An appeal may be taken from the decision of the department. The appeal shall be in accordance with the act.

Sec. 80. Section 71-1917, Reissue Revised Statutes of Nebraska, is amended to read:

71-1917. The biennial report required under section 43-3402 shall include:

(1) The number of license applications received under ~~sections 71-1908 to 71-1917~~ section 71-1911;

(2) The number of such licenses issued; ~~under such sections;~~

(3) The number of such license applications denied; ~~under such sections;~~

(4) The number of complaints investigated ~~under such sections~~ regarding such licensees;

(5) The number of such licenses revoked; ~~under such sections;~~

(6) The number and dollar amount of civil penalties levied pursuant to section ~~71-1915~~ 83 of this act; and

(7) Information which may assist the Legislature in determining the extent of cooperation provided to the department by other state and local agencies pursuant to section 71-1914.

Sec. 81. The department shall maintain a complaint tracking system for licensees under the Child Care Licensing Act.

Sec. 82. The department may deny the issuance of or take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

(1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act;

(2) Violation of an order of the director under the act;

(3) Conviction of, or substantial evidence of committing or permitting, aiding, or abetting another to commit, any unlawful act, including, but not limited to, unlawful acts committed by an applicant or licensee under the act, household members who reside at the place where the program is provided, or employees of the applicant or licensee that involve:

(a) Physical abuse of children or vulnerable adults as defined in section 28-371;

(b) Endangerment or neglect of children or vulnerable adults;

(c) Sexual abuse, sexual assault, or sexual misconduct;

(d) Homicide;

(e) Use, possession, manufacturing, or distribution of a controlled substance listed in section 28-405;

(f) Property crimes, including, but not limited to, fraud, embezzlement, and theft by deception; and

(g) Use of a weapon in the commission of an unlawful act;

(4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;

(5) Failure to allow an agent or employee of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure access to the program for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of such departments;

(6) Failure to allow state or local inspectors, investigators, or law enforcement officers access to the program for the purposes of investigation necessary to carry out their duties;

(7) Failure to meet requirements relating to sanitation, fire safety, and building codes;

(8) Failure to comply with or violation of the Medication Aide Act;

(9) Failure to file a report of suspected abuse or neglect as

required by sections 28-372 and 28-711;

(10) Violation of any city, village, or county rules, regulations, or ordinances regulating licensees; or

(11) Failure to pay fees required under the Child Care Licensing Act.

Sec. 83. (1) The department may impose any one or a combination of the following types of disciplinary action against a license issued under the Child Care Licensing Act:

(a) Issue a probationary license;

(b) Suspend or revoke a provisional, probationary, or operating license;

(c) Impose a civil penalty of up to five dollars per child, based upon the number of children for which the program is authorized to provide child care on the effective date of the finding of violation, for each day the program is in violation;

(d) Establish restrictions on new enrollment in the program;

(e) Establish restrictions or other limitations on the number of children or the age of the children served in the program; or

(f) Establish other restrictions or limitations on the type of service provided by the program.

(2) A person who has had a license revoked for any cause other than nonpayment of fees shall not be eligible to reapply for a license for a period of two years.

(3) Any fine imposed and unpaid under the Child Care Licensing 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 program is located. The department shall, within thirty days after receipt, remit fines to the State Treasurer for credit to the permanent school fund.

Sec. 84. (1) In determining what type of disciplinary action to impose, the department shall consider:

(a) The gravity of the violation, including the probability that death or serious physical or mental harm will result, the severity of the actual or potential harm, and the extent to which the provisions of applicable statutes, rules, and regulations were violated;

(b) The diligence exercised by the program in identifying or correcting the violation;

(c) The degree of cooperation exhibited by the licensee in the identification, disclosure, and correction of the violation;

(d) Any previous violations committed by the program; and

(e) The financial benefit to the program of committing or continuing the violation.

(2) If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the department may take additional disciplinary action as described in section 83 of this act.

Sec. 85. (1) If the department determines to deny the issuance of or take disciplinary action against a license under the Child Care Licensing Act, the department shall send to the applicant or licensee, by certified mail to the address of the applicant or licensee, a notice setting forth the determination, the particular reasons for the determination, including a specific description of the nature of the violation and the statute, rule, regulation, or order violated, and the type of disciplinary action which is pending. A copy of the notice shall also be mailed to the person in charge of the program if the licensee is not actually involved in the daily operation of the program. If the licensee is a corporation, a copy of the notice shall be sent to the corporation's registered agent.

(2) The denial or disciplinary action shall become final fifteen days after the mailing of the notice unless the applicant or licensee, within such fifteen-day period, makes a written request for a hearing. The license shall continue in effect until the final order of the director if a hearing is requested. If the director does not receive such request within such fifteen-day period, the action of the department shall be final.

Sec. 86. A licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time, except that the department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the department has initiated disciplinary action against the licensee.

Sec. 87. This section and sections 71-3601 to 71-3614 shall be known and may be cited as the Tuberculosis Detection and Prevention Act.

Sec. 88. Section 71-3601, Reissue Revised Statutes of Nebraska, is amended to read:



71-3601. ~~As used in sections 71-3601 to 71-3612, unless the context otherwise requires~~ For purposes of the Tuberculosis Detection and Prevention Act:

(1) ~~State health officer shall mean the Director of Health and Human Services;~~

(2) ~~Local health officer shall mean the administrative medical officer of any organized local health department that is fully approved by the Department of Health and Human Services Regulation and Licensure, or the medical advisor to a county, city, or village board of health;~~

(3) ~~Communicable tuberculosis shall mean~~ means tuberculosis manifested by a laboratory report of sputum or other body fluid or excretion found to contain tubercle bacilli or by chest X-ray findings interpreted as active tuberculosis by competent medical authority;

(2) Department means the Department of Health and Human Services Regulation and Licensure;

(3) Facility means a structure in which suitable isolation for tuberculosis can be given and which is approved by the department for the detention of recalcitrant tuberculosis persons;

(4) Local health officer means (a) the health director of a local public health department as defined in section 71-1626 or (b) the medical advisor to the board of health of a county, city, or village;

(4) (5) ~~Recalcitrant tuberculous person shall mean~~ means a person affected with tuberculosis in an active stage who by his or her conduct or mode of living endangers the health and well-being of other persons, by exposing them to tuberculosis, and who refuses to accept adequate treatment; and

(5) ~~Facility shall mean a structure in which suitable isolation for tuberculosis can be given, and which is approved by the Department of Health and Human Services for the detention of recalcitrant tuberculous persons~~

(6) State health officer means the Director of Regulation and Licensure or the chief medical officer as described in section 81-3201.

Sec. 89. Section 71-3602, Reissue Revised Statutes of Nebraska, is amended to read:

71-3602. When a person with communicable tuberculosis violates the rules, regulations, or orders adopted and promulgated by the Department of Health and Human Services department and is thereby conducting himself or herself in such a way as to expose others to danger of infection, after having been ordered by the Director of Health and Human Services or by state health officer or a local health officer to comply, ~~with such rules,~~ the state health officer or local health officer shall institute proceedings for commitment, returnable to the county court of the county in which the person resides or, if the person is a nonresident or has no permanent residence, in the county in which the person is found. Strictness of pleading ~~shall not be~~ is not required, and a general allegation that the public health requires commitment of the person ~~shall therein be~~ is sufficient.

Sec. 90. Section 71-3603, Reissue Revised Statutes of Nebraska, is amended to read:

71-3603. The county attorney of the county ~~wherein~~ in which the proceedings ~~shall~~ are to be held, as provided in section 71-3602, shall act for the ~~Department of Health and Human Services~~ department or local board of health. ~~The~~ Either the state health officer or local health officer shall advise the county attorney in writing of the violation. Within three days of such notification, the county attorney shall file a petition with the county court.

Upon filing of the petition, the court shall set the matter for a hearing, which time shall be not less than five days nor more than ten days subsequent to filing. A copy of the petition together with a summons stating the time and place of hearing shall be served upon the person three days or more prior to the time set for the hearing.

Summons shall be served by the sheriff of the county in which the hearing is to be held, and return thereof shall be made as in other civil cases.

The court costs incurred in proceedings under ~~sections 71-3601 to 71-3612~~ the Tuberculosis Detection and Prevention Act, including medical examinations required by order of the court but excluding examinations procured by the person named in the petition, shall be borne by the county in which the proceedings are held.

Sec. 91. Section 71-3608, Reissue Revised Statutes of Nebraska, is amended to read:

71-3608. No person having communicable tuberculosis who in his or her home or elsewhere obeys the rules, ~~and~~ regulations, and orders of the ~~Department of Health and Human Services~~ department for the control of

tuberculosis or who voluntarily accepts hospitalization or treatment in a health care facility which is licensed and approved for such use under the Health Care Facility Licensure Act by the Department of Health and Human Services Regulation and Licensure department and obeys the rules, and regulations, and orders of the Department of Health and Human Services department for the control of communicable tuberculosis shall be committed under the provisions of sections 71-3601 to 71-3612 Tuberculosis Detection and Prevention Act.

Sec. 92. Section 71-3609, Reissue Revised Statutes of Nebraska, is amended to read:

71-3609. No person committed under the provisions of sections 71-3601 to 71-3612 Tuberculosis Detection and Prevention Act shall be required to submit to medical or surgical treatment without his or her consent or, if incompetent, without the consent of his or her legal guardian, or, if a minor, without the consent of a parent or next of kin.

Sec. 93. Section 71-3610, Reissue Revised Statutes of Nebraska, is amended to read:

71-3610. The expenses incurred in the care, maintenance, and treatment of patients committed under the provisions of sections 71-3601 to 71-3612 Tuberculosis Detection and Prevention Act shall be paid from state funds appropriated to the Department of Health and Human Services Finance and Support for the purpose of entering into agreements with qualified health care facilities so as to provide for the care, maintenance, and treatment of such patients and those other persons having communicable tuberculosis who voluntarily agree to and accept care and treatment.

Sec. 94. Section 71-3611, Reissue Revised Statutes of Nebraska, is amended to read:

71-3611. Any person committed under the provisions of sections 71-3601 to 71-3612 Tuberculosis Detection and Prevention Act who leaves the ~~health care~~ facility without having been discharged by the attending physician or by court order shall be taken into custody and returned to the facility by the sheriff of any county where such person is found, upon an affidavit being filed with the sheriff by the administrator of the facility or duly authorized officer in charge thereof acting as the duly appointed agent and representative of the Director of Health and Human Services department in the matter. The costs of such transportation shall be paid from county general funds of the patient's county of residence. If the person is a nonresident of Nebraska or has no permanent residence, the costs shall be paid from county general funds of the county of commitment.

Sec. 95. Section 71-3612, Reissue Revised Statutes of Nebraska, is amended to read:

71-3612. ~~Each~~ The state health officer and each local health officer is hereby directed to shall use all available means to detect persons with communicable tuberculosis in his or her jurisdiction. If he or she has reasonable grounds based upon medical science for believing that a person has communicable tuberculosis, and if this person refuses to submit to the examination necessary for determining the existence of communicable tuberculosis, the state health officer or local health officer shall issue an order to the person to obtain the appropriate examination. Thereafter, if the person does not comply within seven days, the state health officer or local health officer may institute commitment procedures as described in sections 71-3601 to 71-3604, the purpose of commitment under this section being to determine whether or not the person has communicable tuberculosis.

The costs of voluntary examination made upon ~~health officer~~ request ~~of~~ of the state health officer or local health officer and the cost of examination made upon ~~health officer~~ order of the state health officer or local health officer shall be paid from county general funds of the person's county of residence. If the person is a nonresident or has no permanent residence, the costs shall be paid from the county general funds of the county of commitment. The costs of examination and maintenance while under commitment shall be paid from state funds appropriated to the Department of Health and Human Services department therefor. The costs of transportation under the commitment procedure for examination shall be paid from county general funds of the county of residence. If the person is not a resident of Nebraska or has no permanent residence, they shall be paid from the county general funds of the county of commitment.

Sec. 96. Section 71-3613, Reissue Revised Statutes of Nebraska, is amended to read:

71-3613. The Department of Health and Human Services department shall have and may exercise the following powers and duties in its administration of sections 71-3601 to 71-3612 the Tuberculosis Detection and Prevention Act:

(1) To contract with qualified hospitals or other health care facilities which are licensed and approved for such use under the Health Care Facility Licensure Act by the Department of Health and Human Services Regulation and Licensure department for the purpose of caring for, maintaining, and treating patients committed under the provisions of sections 71-3601 to 71-3612 Tuberculosis Detection and Prevention Act, and for those other persons having communicable tuberculosis who voluntarily agree to and accept care and treatment in such a health care facility on either an inpatient or an outpatient basis;

(2) To inspect and supervise to the extent necessary the facilities, operations, and administration of those health care facilities under contract to or otherwise receiving support from the Department of Health and Human Services department for the purpose of providing care, treatment, or maintenance for persons infected with communicable tuberculosis;

(3) To provide visiting nursing services to those persons having communicable tuberculosis who are being treated on an outpatient basis;

(4) To adopt rules and regulations, and issue orders based thereon, relative to reports and statistics on tuberculosis from counties and the care, treatment, and maintenance of persons having tuberculosis, especially of those in the communicable or contagious stage thereof; and

(5) To set standards by rule and regulation for the types and level of medical care and treatment to be used by those health care facilities caring for tuberculous persons and to set standards by rule and regulation governing contracts mentioned in subdivision (1) of this section dealing with such matters as program standards, maximum and minimum costs and rates, administrative procedures to be followed and reports to be made, and arbitration by third parties.

Rules, regulations, and orders in effect under this section prior to the operative date of this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law. ~~except that no such contract or contracts shall be longer than one year in duration or involve amounts in excess of the funds appropriated therefor.~~

Sec. 97. Section 71-3614, Reissue Revised Statutes of Nebraska, is amended to read:

71-3614. (1) When any person who has communicable or contagious tuberculosis and who has relatives, friends, or a private or public agency or organization willing to undertake the obligation to support him or her or to aid in supporting him or her in any other state or country, the Department of Health and Human Services department may furnish him or her with the cost of transportation to such other state or country if it finds that the interest of the State of Nebraska and the welfare of such person will be promoted thereby. The expense of such transportation shall be paid by the department out of funds appropriated to it for the purpose of carrying out the provisions of sections 71-3601 to 71-3612 Tuberculosis Detection and Prevention Act.

(2) No funds appropriated to the Department of Health and Human Services department for the purpose of carrying out the provisions of sections 71-3601 to 71-3612 act shall be used for meeting the cost of the care, maintenance, or treatment of any person who has communicable or contagious tuberculosis in a health care facility on either an inpatient or an outpatient basis, or otherwise, or for transportation to another state or country, to the extent that such cost is covered by an insurer or other third-party payor or any other entity under obligation to such person by contract, policy, certificate, or any other means whatsoever. The department in no case shall expend any such funds to the extent that any such person is able to bear the cost of such care, maintenance, treatment, or transportation. The department shall determine the ability of a person to pay by consideration of the following factors: (a) The person's age, (b) the number of his or her dependents and their ages and physical condition, (c) the person's length of care, maintenance, or treatment, (d) his or her liabilities, and (e) his or her assets. Pursuant to ~~the provisions of~~ the Administrative Procedure Act, the department shall adopt appropriate and promulgate rules and regulations for making the determinations required by this subsection.

Rules, regulations, and orders in effect under this section prior to the operative date of this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

Sec. 98. Section 71-5301, Reissue Revised Statutes of Nebraska, is amended to read:

71-5301. For purposes of the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

(1) Council means the Advisory Council on Public Water Supply;

(2) Director means the Director of Regulation and Licensure or his or her authorized representative;

(3) Designated agent means any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the Nebraska Safe Drinking Water Act and with which the Director of Regulation and Licensure has consummated a legal and binding contract covering specifically delegated responsibilities;

(4) Major construction, extension, or alteration means those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but does not include the extension of service mains within established service areas;

(5) Operator means the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;

(6) Owner means any person owning or operating a public water system;

(7) Person means any individual, firm, partnership, limited liability company, association, company, corporation, political subdivision, or other entity;

(8) Water supply system means all sources of water and their surroundings under the control of one owner and includes all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;

(9) (a) Public water system means a system for providing the public with water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. Public water system includes ~~(a)~~ (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and ~~(b)~~ (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system does not include a special irrigation district. A public water system is either a community water system or a noncommunity water system.

(b) Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if (i) the water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses, (ii) the department determines that alternative water to achieve the equivalent level of public health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the act is provided for residential or similar uses for drinking and cooking, or (iii) the department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the act.

(c) Special irrigation district means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use if the system or the residential or similar users of the system comply with exclusion provisions of subdivision (b)(ii) or (iii) of this subdivision;

(10) Drinking water standards means rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the Director of Regulation and Licensure, may have an adverse effect on the health of persons and (b) apply only to public water systems;

(11) Lead free (a) when used with respect to solders and flux means solders and flux containing not more than two-tenths percent lead, and (b) when used with respect to pipe pipes and pipe fittings means pipe pipes and pipe fittings containing not more than eight percent lead, and (c) when used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion means fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300g-6(e) as such section existed on the operative date of this section;

(12) Community water system means a public water system that (a) serves at least fifteen service connections used by year-round residents of the area served by the system or (b) regularly serves at least twenty-five year-round residents;

(13) Noncommunity water system means a public water system that is not a community water system;

(14) Nontransient noncommunity water system means a public water system that is not a community water system and that regularly serves at least

twenty-five of the same individuals over six months per year;

(15) Small system means a public water system that regularly serves less than ten thousand individuals; and

(16) Probation means a disciplinary action not to exceed two years in length during which a certificate holder may continue to operate under terms and conditions fixed by the order of probation.

Sec. 99. Section 71-5651, Reissue Revised Statutes of Nebraska, is amended to read:

71-5651. (1) The Legislature finds that (a) residents of rural Nebraska frequently encounter difficulties in obtaining medical care due to the lack of health care providers, facilities, and services, (b) many rural communities experience problems in recruiting and retaining health care providers, (c) rural residents are often required to travel long distances in order to obtain health care services, (d) elderly and uninsured persons constitute a high proportion of the population in rural Nebraska, (e) many rural hospitals are experiencing declining patient revenue and are being forced to reconsider the scope and nature of the health care services they provide, (f) the physical and economic stresses of rural living can lead to an increased need for mental health services in rural Nebraska, (g) the conditions described in this section can lead to situations in which residents of rural Nebraska receive a lower level of health care services than their urban counterparts, and (h) some of the conditions described in this subsection also exist in underserved portions of metropolitan areas within the state.

(2) The Legislature further finds that the health care industry is a vital component of the economic base of many rural communities and that the maintenance and enhancement of this industry can play a significant role in efforts to further the economic development of rural communities.

(3) The Legislature further finds that the inherent limitations imposed upon health care delivery mechanisms by the rural environment can be partially overcome through a greater emphasis on the development of health care systems that emphasize the linkage and integration of health care resources in neighboring communities as well as the development of new resources.

(4) The Legislature further finds that postsecondary education of medical, dental, and mental health professionals is important to the welfare of the state. The Legislature further recognizes and declares that the state can help alleviate the problems of maldistribution and shortages of medical, dental, and mental health personnel through programs offering financial incentives to practice in areas of shortage.

Sec. 100. Section 71-5652, Reissue Revised Statutes of Nebraska, is amended to read:

71-5652. The purposes of the Rural Health Systems and Professional Incentive Act ~~shall be~~ are to (1) create the Nebraska Rural Health Advisory Commission and establish its powers and duties, (2) establish a student loan program that will provide financial incentives to medical, dental, master's level and doctorate-level mental health, and physician assistant students who agree to practice their profession in a designated health profession shortage area within Nebraska, and (3) establish a loan repayment program that will require community matching funds and will provide financial incentives to eligible ~~public~~ health professionals who agree to practice their profession in a designated health profession shortage area within Nebraska.

Sec. 101. Section 71-5653, Reissue Revised Statutes of Nebraska, is amended to read:

71-5653. For purposes of the Rural Health Systems and Professional Incentive Act:

(1) Approved medical specialty means family practice, general practice, general internal medicine, general pediatrics, general surgery, obstetrics/gynecology, and psychiatry;

(2) Approved dental specialty means general practice, pediatric dentistry, and oral surgery;

(3) Approved mental health practice program means an approved educational program consisting of a master's or doctorate degree with the focus being primarily therapeutic mental health and meeting the educational requirements for licensure in mental health practice or psychology by the Department of Health and Human Services Regulation and Licensure;

(4) Commission means the Nebraska Rural Health Advisory Commission;

~~(4)~~ (5) Department means the Department of Health and Human Services;

~~(5)~~ (6) Doctorate-level mental health student means a graduate student enrolled in or accepted for enrollment in an approved mental health practice program leading to a doctorate degree and meeting the educational

requirements for licensure in psychology by the Department of Health and Human Services Regulation and Licensure;

(7) Full-time practice means a minimum of forty hours per week;

~~(6)~~ (8) Health care means both somatic and mental health care services;

~~(7)~~ (9) Master's level mental health student means a graduate student enrolled in or accepted for enrollment in an approved mental health practice program leading to a master's degree and meeting the educational requirements for licensure in mental health practice by the Department of Health and Human Services Regulation and Licensure;

(10) Office means the Office of Rural Health;

~~(8)~~ (11) Qualified educational debts means government and commercial loans obtained by students for postsecondary education tuition, other educational expenses, and reasonable living expenses, as determined by the ~~department~~ Department of Health and Human Services, but does not include loans received under the act or the Nebraska Medical Student Assistance Act; and

~~(9)~~ (12) Rural means located within any county in Nebraska having a population of less than fifteen thousand inhabitants and not included within a metropolitan statistical area as defined by the United States Department of Commerce, Bureau of the Census.

Sec. 102. Section 71-5654, Reissue Revised Statutes of Nebraska, is amended to read:

71-5654. The Nebraska Rural Health Advisory Commission is hereby created as the direct and only successor to the Commission on Rural Health Manpower. The Nebraska Rural Health Advisory Commission shall consist of thirteen members as follows:

(1) The Director of Regulation and Licensure or his or her designee and the Director of Health and Human Services or his or her designee; and

(2) Eleven members to be appointed by the Governor with the advice and consent of the Legislature as follows:

(a) One representative of each medical school located in the state involved in training family physicians and one physician in family practice residency training; and

(b) From rural areas one physician, one consumer representative, one hospital administrator, one nursing home administrator, one nurse, one physician assistant, one mental health ~~professional~~ practitioner or psychologist licensed under the requirements of section 71-1,206.15 or the equivalent thereof, and one dentist.

Members shall serve for terms of three years. When a vacancy occurs, appointment to fill the vacancy shall be made for the balance of the term. All appointed members shall be citizens and residents of Nebraska. The appointed membership of the commission shall, to the extent possible, represent the three congressional districts equally.

Sec. 103. Section 71-5661, Reissue Revised Statutes of Nebraska, is amended to read:

71-5661. (1) The financial incentives provided by the Rural Health Systems and Professional Incentive Act shall consist of (a) student loans to eligible students for attendance at an eligible school as determined pursuant to section 71-5662 and (b) the repayment of qualified educational debts owed by eligible health professionals as determined pursuant to such section. Funds for such incentives shall be appropriated from the General Fund to the department for such purposes.

(2) The Rural Health Professional Incentive Fund is created. The fund shall be used to carry out the purposes of the act. Money credited pursuant to section 71-5670.01 and payments received pursuant to sections 71-5666 and 71-5668 shall be remitted to the State Treasurer for credit to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 104. Section 71-5662, Reissue Revised Statutes of Nebraska, is amended to read:

71-5662. (1) To be eligible for a student loan under the Rural Health Systems and Professional Incentive Act, an applicant or a recipient shall be enrolled or accepted for enrollment in an accredited medical or dental education program or physician assistant education program or an approved mental health practice program in Nebraska.

(2) To be eligible for loan repayment under the act, an applicant or a recipient shall be a pharmacist, a dentist, a physical therapist, an occupational therapist, a mental health practitioner, a psychologist licensed under the requirements of section 71-1,206.15 or the equivalent thereof, an advanced practice registered nurse, a physician assistant, or a physician in an approved specialty and shall be licensed ~~or certified~~ to practice in

Nebraska, not be enrolled in a residency program, not be practicing under a provisional or temporary license, and enter practice in a designated health profession shortage area in Nebraska.

Sec. 105. Section 71-5663, Reissue Revised Statutes of Nebraska, is amended to read:

71-5663. (1) The amount of financial assistance provided through student loans pursuant to the Rural Health Systems and Professional Incentive Act shall be limited to twenty thousand dollars for each recipient for each academic year and shall not exceed eighty thousand dollars per medical, ~~ex~~ dental, or doctorate-level mental health student or twenty thousand dollars per master's level mental health or physician assistant student.

(2) The amount of financial assistance provided by the state through loan repayments pursuant to the act (a) for physicians, dentists, and ~~clinical~~ psychologists shall be limited to ten thousand dollars per recipient per year of full-time practice in a designated health profession shortage area and shall not exceed thirty thousand dollars per recipient and (b) for physician assistants, advanced practice registered nurses, pharmacists, physical therapists, occupational therapists, and ~~master's level mental health professionals~~ mental health practitioners shall be limited to five thousand dollars per recipient per year of full-time practice in a designated health profession shortage area and shall not exceed fifteen thousand dollars per recipient.

Sec. 106. Section 71-5665, Reissue Revised Statutes of Nebraska, is amended to read:

71-5665. The commission shall periodically designate health profession shortage areas within the state for the following professions: Medicine and surgery, physician assistants' practice, advanced practice registered nurses' practice, ~~clinical~~ psychology, and ~~master's level~~ mental health practitioner's practice. The commission shall also periodically designate separate health profession shortage areas for each of the following professions: Pharmacy, dentistry, physical therapy, and occupational therapy. In making such designations the commission shall consider, after consultation with other appropriate agencies concerned with health services and with appropriate professional organizations, among other factors:

(1) The latest reliable statistical data available regarding the number of health professionals practicing in an area and the population to be served by such practitioners;

(2) Inaccessibility of health care services to residents of an area;

(3) Particular local health problems;

(4) Age or incapacity of local practitioners rendering services; and

(5) Demographic trends in an area both past and future.

Sec. 107. Section 71-5666, Reissue Revised Statutes of Nebraska, is amended to read:

71-5666. Each student loan recipient shall execute an agreement with the state. Such agreement shall include the following terms, as appropriate:

(1) The borrower agrees to practice the equivalent of one year of full-time practice of an approved specialty in a designated health profession shortage area in Nebraska for each year of education for which a loan is received and agrees to accept medicaid patients in his or her practice;

(2) If the borrower practices an approved specialty in a designated health profession shortage area in Nebraska, the loan shall be forgiven as provided in this section. Practice in a designated area shall commence within three months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in an approved specialty. The commission may approve exceptions to the three-month restriction upon showing good cause. Loan forgiveness shall occur on a quarterly basis, with completion of the equivalent of three months of full-time practice resulting in the cancellation of one-fourth of the annual loan amount;

(3) If the borrower practices an approved specialty in Nebraska but not in a designated health profession shortage area, practices a specialty other than an approved specialty in Nebraska, or practices outside Nebraska, the borrower shall repay one hundred percent of the outstanding loan principal with interest at a rate of twenty-four percent simple interest per year from the date the loan was granted. Such repayment shall commence within six months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in an approved specialty, and shall be completed within a period not to exceed twice the number of years for which loans were awarded;

(4) If a borrower who is a medical, ~~ex~~ dental, or doctorate-level mental health student determines during the first or second year of medical,

~~or dental, or doctorate-level mental health education that his or her commitment to the loan program cannot be honored, the borrower may repay the outstanding loan principal, plus six percent simple interest per year from the date the loan was granted, prior to graduation from medical or dental school or a mental health practice program without further penalty or obligation. Master's level mental health and physician~~ ~~Physician~~ assistant student loan recipients shall not be eligible for this provision;

(5) If the borrower discontinues the course of study for which the loan was granted, the borrower shall repay one hundred percent of the outstanding loan principal. Such repayment shall commence within six months of the date of discontinuation of the course of study and shall be completed within a period of time not to exceed the number of years for which loans were awarded; and

(6) In the event of a borrower's total and permanent disability or death, the unpaid debt accrued under the Rural Health Systems and Professional Incentive Act shall be canceled.

Sec. 108. Section 71-5668, Reissue Revised Statutes of Nebraska, is amended to read:

71-5668. Each loan repayment recipient shall execute an agreement with the department and a local entity. Such agreement shall include, at a minimum, the following terms:

(1) The loan repayment recipient agrees to practice his or her profession, and a physician, dentist, advanced practice registered nurse, or physician assistant also agrees to practice an approved specialty, in a designated health profession shortage area for at least three years and to accept medicaid patients in his or her practice;

(2) In consideration of the agreement by the recipient, the State of Nebraska and a local entity within the designated health profession shortage area will provide equal funding for the repayment of the recipient's qualified educational debts, in amounts up to ten thousand dollars per year per recipient for physicians, dentists, and ~~clinical~~ psychologists and up to five thousand dollars per year per recipient for physician assistants, advanced practice registered nurses, pharmacists, physical therapists, occupational therapists, and ~~master's level~~ mental health ~~professionals~~ practitioners toward qualified educational debts for up to three years. The department shall make payments directly to the recipient; and

(3) If the loan repayment recipient discontinues practice in the shortage area prior to completion of the three-year requirement, the recipient shall repay to the state one hundred twenty-five percent of the total amount of funds provided to the recipient for loan repayment. Upon repayment by the recipient to the department, the department shall reimburse the local entity its share of the funds.

Sec. 109. Section 71-5707, Reissue Revised Statutes of Nebraska, is amended to read:

71-5707. (1) No person shall smoke in a public place or at a public meeting except in designated smoking areas. ~~This prohibition subsection does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of such room or hall.~~

(2) With respect to factories, warehouses, and similar places of work not usually frequented by the general public, the Department of Health and Human Services Regulation and Licensure shall, in consultation with the Department of Labor, establish rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees.

(3) No person shall smoke at a site where child care programs required to be licensed under section 71-1911 are provided. ~~This prohibition does not apply if the child care program is located in the home of the provider~~ This subsection applies to a child care program located in the home of the provider only during times one or more client's children are present in any part of the home.

(4) Smoking is prohibited in all vehicles owned or leased by the state and in all buildings, and the area within ten feet of any entrance of such buildings, which are owned, leased, or occupied by the state except as provided in subsections (5), (6), and (7) of this section.

(5) The following buildings or areas within buildings in which persons reside or lodge may be exempt from this section: (a) Nebraska veterans homes established pursuant to section 80-315; (b) private residences; (c) facilities and institutions under the control of the Department of Health and Human Services; and (d) overnight lodging facilities and buildings managed



by the Game and Parks Commission, but no more than twenty-five percent of the overnight lodging facilities at each park location shall permit smoking.

(6) Designated smoking areas not to exceed fifty percent of the space used by the public may be established in state-owned buildings at the Nebraska State Fairgrounds that possess a Class C, I, or M license for the sale of alcoholic liquor for consumption on the premises under the Nebraska Liquor Control Act.

(7) Smoking may be permitted in no more than forty percent of the residential housing rooms or units owned or leased on each campus under the control of the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges.

Sec. 110. Section 71-6038, Reissue Revised Statutes of Nebraska, is amended to read:

71-6038. For purposes of sections 71-6038 to 71-6042, ~~unless the context otherwise requires~~ and sections 115 to 119 of this act:

(1) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral or intravenous feedings;

(2) Department shall mean means the Department of Health and Human Services Regulation and Licensure; ~~and~~

~~(2) (3) Nursing assistant shall mean means~~ any person, ~~other than a licensed registered or practical nurse,~~ employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents other than a paid dining assistant or a licensed registered or practical nurse;

(4) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-421, 71-422, 71-424, and 71-429; and

(5) Paid dining assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the feeding of residents other than a nursing assistant or a licensed registered or practical nurse.

Sec. 111. Section 71-6039, Reissue Revised Statutes of Nebraska, is amended to read:

71-6039. (1) No person shall act as a nursing assistant in a nursing home unless such person:

~~(1) (a)~~ Is at least sixteen years of age and has not been convicted of a crime involving moral turpitude;

~~(2) (b)~~ Is able to speak and understand the English language or a language understood by a substantial portion of the nursing home residents; and

~~(3) (c)~~ Has successfully completed a basic course of training approved by the department for nursing assistants within one hundred twenty days of initial employment in the capacity of a nursing assistant at any nursing home if employment begins after January 1, 1984.

(2) The department may prescribe a curriculum for training nursing assistants and may adopt and promulgate rules and regulations for such courses of training. The content of the courses of training and competency evaluation programs shall be consistent with federal requirements unless exempted. The department may approve courses of training if such courses of training meet the requirements of this section. Such courses of training shall include instruction on the responsibility of each nursing assistant to report suspected abuse or neglect pursuant to sections 28-372 and 28-711. Nursing homes may carry out approved courses of training within the nursing home, except that nursing homes may not conduct the competency evaluation part of the program. The prescribed training shall be administered by a licensed registered nurse.

~~Prior to October 1, 1990, for nursing assistants at all nursing homes, and on and after such date for (3) For~~ nursing assistants at intermediate care facilities for the mentally retarded, such courses of training shall be no less than twenty hours in duration and shall include at least fifteen hours of basic personal care training and five hours of basic therapeutic and emergency procedure training, ~~and on and after October 1, 1990, for nursing assistants at all nursing homes other than intermediate care facilities for the mentally retarded, such courses shall be no less than seventy-five hours in duration.~~

(4) This section shall not prohibit any facility from exceeding the minimum hourly or training requirements.

Sec. 112. Section 71-6040, Reissue Revised Statutes of Nebraska, is amended to read:

71-6040. ~~The Department of Health and Human Services Regulation and~~

Licensure department shall approve all courses, lectures, seminars, course materials, or other instructional programs used to meet the requirements of sections 71-6038 to 71-6042 and sections 115 to 119 of this act.

Sec. 113. Section 71-6041, Reissue Revised Statutes of Nebraska, is amended to read:

71-6041. To protect the health, safety, and welfare of nursing home residents and the public, the Department of Health and Human Services Regulation and Licensure department shall adopt and promulgate such rules and regulations as are necessary for the effective administration of sections 71-6038 to 71-6042 and sections 115 to 119 of this act. Such rules and regulations shall be consistent with federal requirements developed by the United States Department of Health and Human Services.

Sec. 114. Section 71-6042, Reissue Revised Statutes of Nebraska, is amended to read:

71-6042. The department shall have the authority to enforce sections 71-6038 to 71-6042 and sections 115 to 119 of this act and such rules and regulations adopted thereto under section 71-6041 by any of the following means: denial Denial, suspension, restriction, or revocation of a nursing home's license, refusal of the renewal of a nursing home's license, restriction of a nursing home's admissions, or any other enforcement provision granted to the department.

Sec. 115. No person shall act as a paid dining assistant in a nursing home unless such person:

- (1) Is at least sixteen years of age;
- (2) Is able to speak and understand the English language or a language understood by the nursing home resident being fed by such person;
- (3) Has successfully completed at least eight hours of training as prescribed by the department for paid dining assistants;
- (4) Has no adverse findings on the Nurse Aide Registry or the Adult Protective Services Central Registry; and
- (5) Has no adverse findings on the central register created in section 28-718 if the nursing home which employs such person as a paid dining assistant has at any one time more than one resident under the age of nineteen years.

Sec. 116. A paid dining assistant shall:

- (1) Only feed residents who have no complicated feeding problems as selected by the nursing home based on the resident's latest assessment and plan of care and a determination by the charge nurse that the resident's condition at the time of such feeding meets that plan of care;
- (2) Work under the supervision of a licensed registered or practical nurse who is in the nursing home and immediately available; and
- (3) Call a supervisor for help in an emergency.

Sec. 117. (1) The department may prescribe a curriculum for training paid dining assistants and may adopt and promulgate rules and regulations for such courses of training. Such courses shall be no less than eight hours in duration. The department may approve courses of training for paid dining assistants that meet the requirements of this section. Nursing homes may carry out approved courses of training and competency evaluation programs at the nursing home. Training of paid dining assistants shall be administered by a licensed registered nurse.

(2) Courses of training and competency evaluation programs for paid dining assistants shall include:

- (a) Feeding techniques;
- (b) Assistance with feeding and hydration;
- (c) Communication and interpersonal skills;
- (d) Appropriate responses to resident behavior;
- (e) Safety and emergency procedures, including the abdominal thrust maneuver;
- (f) Infection control;
- (g) Resident rights;
- (h) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse;

(i) Special needs; and

(j) Abuse and neglect, including the responsibility to report suspected abuse or neglect pursuant to sections 28-372 and 28-711.

(3) This section shall not prohibit any facility from exceeding the minimum hourly or training requirements.

Sec. 118. The department shall maintain a paid dining assistant registry and shall include in the registry individuals who have successfully completed a paid dining assistant course of training and a competency evaluation program.

Sec. 119. Each nursing home shall maintain (1) a record of all paid dining assistants employed by such facility, (2) verification of successful completion of a training course for each paid dining assistant, and (3) verification that the facility has made checks with the Nurse Aide Registry, the Adult Protective Services Central Registry, and the central register created in section 28-718, if applicable under section 115 of this act, with respect to each paid dining assistant.

Sec. 120. Section 71-6101, Reissue Revised Statutes of Nebraska, is amended to read:

71-6101. Sections 71-6101 to 71-6115 and sections 123 to 128 and 130 of this act shall be known and may be cited as the Occupational Therapy Practice Act.

Sec. 121. Section 71-6103, Reissue Revised Statutes of Nebraska, is amended to read:

71-6103. For purposes of the Occupational Therapy Practice Act, unless the context otherwise requires:

(1) Active license means the license of a person who is acting, practicing, functioning, and working in compliance with the requirements of a license;

(2) Association means a recognized national or state association for occupational therapy;

(3) Board means the Board of Occupational Therapy Practice established by section 71-6115;

(4) Credentialing means the process of obtaining state approval to provide health care services or human services or to change aspects of a current approval and includes, but is not limited to, granting permission to use a protected title that signifies that a person is qualified to provide the services within the scope of practice of a profession;

(5) Deep thermal agent modalities means therapeutic ultrasound and phonophoresis. Deep thermal agent modalities does not include the use of diathermy or lasers;

(6) Department means the Department of Health and Human Services Regulation and Licensure;

~~(6) License means a license issued under the act;~~

~~(7) Licensee means a person holding a license;~~

~~(8) (7) Electrotherapeutic agent modalities means neuromuscular electrical stimulation, transcutaneous electrical nerve stimulation, and iontophoresis. Electrotherapeutic agent modalities does not include the use of ultraviolet light;~~

(8) Mechanical devices means intermittent compression devices. Mechanical devices does not include devices to perform spinal traction;

(9) Occupational therapist means a person holding an active license as an occupational therapist to practice occupational therapy;

~~(9) (10) (a) Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence independent function, prevent further disability, and achieve and maintain health and productivity.~~

(b) Occupational therapy encompasses evaluation, treatment, and consultation and may include teaching daily living skills, developing perceptual-motor skills and sensory integrative functioning, developing prevocational capacities, designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment, using specifically designed therapeutic media and exercises to enhance functional performance, administering and interpreting tests such as manual muscle and range of motion, and adapting environments for the handicapped (i) remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes, (ii) adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance, (iii) disability prevention methods and techniques which facilitate the development or safe application of performance skills, and (iv) health promotion strategies and practices which enhance performance abilities;

~~(10) (11) Occupational therapy aide means a person who assists in the practice of occupational therapy, who works under the supervision of an occupational therapist, and whose activities require an understanding of occupational therapy but do not require professional or advanced training or licensure is not licensed by the board and who provides supportive services to occupational therapists and occupational therapy assistants;~~

~~(11) (12) Occupational therapy assistant means a person holding an active license to assist in the practice of occupational therapy;~~

(13) Physical agent modalities means modalities that produce a

biophysiological response through the use of water, temperature, sound, electricity, or mechanical devices; and

(14) Superficial thermal agent modalities means hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling technologies. ~~as an occupational therapy assistant, and~~

~~(12) Person means any individual, partnership, limited liability company, unincorporated organization, or corporate body.~~

Sec. 122. Section 71-6104, Reissue Revised Statutes of Nebraska, is amended to read:

71-6104. No person may represent himself or herself to be a licensed occupational therapist or occupational therapy assistant unless he or she is licensed in accordance with the Occupational Therapy Practice Act. Nothing in such act shall be construed to prevent:

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

(2) The activities and services of any person employed as an occupational therapist or occupational therapy assistant by the armed forces, the United States Department of Veterans Affairs, or the United States Public Health Service if such person provides occupational therapy solely under the direction or control of the organization by which he or she is employed;

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

(4) The activities and services of any person fulfilling the supervised fieldwork experience requirements of sections 71-6106 and 71-6107 if such activities and services constitute a part of the experience necessary to meet the requirements of such sections; or

(5) An unlicensed person from performing occupational therapy, or  
~~(6)~~ Qualified members of other professions or occupations, including, but not limited to, recreation specialists or therapists, special education teachers, independent living specialists, work adjustment trainers, caseworkers, and persons pursuing courses of study leading to a degree or certification in such fields, from doing work similar to occupational therapy which is consistent with their training if they do not represent themselves by any title or description to be occupational therapists.

Sec. 123. An occupational therapy aide shall function under the guidance and responsibility of an occupational therapist and may be supervised by an occupational therapist or an occupational therapy assistant for specifically selected routine tasks for which the aide has been trained and has demonstrated competence. The aide shall comply with supervision requirements developed by the board. The board shall develop supervision requirements for aides which are consistent with prevailing professional standards.

Sec. 124. An occupational therapist may perform the following services:

(1) Evaluate, develop, improve, sustain, or restore skills in activities of daily living, work activities, or productive activities, including instrumental activities of daily living, and play and leisure activities;

(2) Evaluate, develop, remediate, or restore sensorimotor, cognitive, or psychosocial components of performance;

(3) Design, fabricate, apply, or train in the use of assistive technology or orthotic devices and train in the use of prosthetic devices;

(4) Adapt environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;

(5) If certified pursuant to section 128 of this act, apply physical agent modalities as an adjunct to or in preparation for engagement in occupations when applied by a practitioner who has documented evidence of possessing the theoretical background and technical skills for safe and competent use;

(6) Evaluate and provide intervention in collaboration with the client, family, caregiver, or others;

(7) Educate the client, family, caregiver, or others in carrying out appropriate nonskilled interventions; and

(8) Consult with groups, programs, organizations, or communities to provide population-based services.

Sec. 125. An occupational therapy assistant may deliver occupational therapy services enumerated in section 124 of this act in collaboration with and under the supervision of an occupational therapist.

Sec. 126. (1) An occupational therapist may accept a referral from a licensed health care professional for the purpose of evaluation and rehabilitative treatment which may include, but not be limited to, consultation, rehabilitation, screening, prevention, and patient education services.

(2) Referrals may be for an individual case or may be for an established treatment program that includes occupational therapy services. If programmatic, the individual shall meet the criteria for admission to the program and protocol for the treatment program shall be established by the treatment team members.

(3) Referrals shall be in writing, except that oral referrals may be accepted if they are followed by a written and signed request of the person making the referral within thirty days after the day on which the patient consults with the occupational therapist.

Sec. 127. The public may have direct access to occupational therapy services.

Sec. 128. (1) In order to apply physical agent modalities, an occupational therapist shall be certified pursuant to this section. The department shall issue a certificate to an occupational therapist to administer a physical agent modality if the occupational therapist:

(a) Has successfully completed a training course approved by the board and passed an examination approved by the board on the physical agent modality;

(b) Is certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the board;

(c) Has a minimum of five years of experience in the use of the physical agent modality and has passed an examination approved by the board on the physical agent modality; or

(d) Has completed education during a basic educational program which included demonstration of competencies for application of the physical agent modality.

(2) The department shall issue a certificate to authorize an occupational therapy assistant to set up and implement treatment using superficial thermal agent modalities if the occupational therapy assistant has successfully completed a training course approved by the board and passed an examination approved by the board. Such set up and implementation shall only be done under the onsite supervision of an occupational therapist certified to administer superficial thermal agent modalities.

(3) An occupational therapist shall not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.

Sec. 129. Section 71-6113, Reissue Revised Statutes of Nebraska, is amended to read:

71-6113. (1)(a) Licenses issued under the Occupational Therapy Practice Act shall be subject to biennial renewal and shall expire August 1 of each even-numbered year unless renewed in the manner provided by section 71-110 upon completion of the continuing competency activities as required under subsection (2) of this section and upon payment of the renewal fee established as provided in section 71-162.

(b) A licensee whose license is revoked for nonpayment of the biennial renewal fee as provided in section 71-110 may be reinstated upon the recommendation of the board and the payment of the required fees established as provided in section 71-162, except that no reinstatement of a license may be granted more than five years after its expiration.

(2)(a) Each Nebraska-licensed occupational therapist in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, complete continuing competency activities as required by the board pursuant to section 71-6115 as a prerequisite to renewal of his or her license.

(b) Each Nebraska-licensed occupational therapy assistant in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, complete continuing competency activities as required by the board pursuant to section 71-6115 as a prerequisite to renewal of his or her license.

(3) Every occupational therapist and occupational therapy assistant shall provide documentation of completing such continuing competency activities as required by the board.

The board shall biennially select, in a random manner, a representative sample of the license renewal applications for audit of compliance with continuing competency requirements.

(4) The department, on the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year

licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(a) The licensee holds a Nebraska license but does not reside or practice in Nebraska;

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

(c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required continuing competency activities during the twenty-four months preceding the license renewal date;

(d) The licensee has been initially licensed by the board within the twenty-four months immediately preceding the license renewal date; and

(e) The licensee has successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy.

Sec. 130. (1) The department, with the approval of the board, shall adopt and promulgate rules and regulations necessary to administer the Occupational Therapy Practice Act to protect the public health, safety, and welfare and to insure, to the greatest extent possible, the efficient, adequate, and safe practice of occupational therapy.

(2) The rules and regulations shall include (a) definitions of unprofessional conduct, (b) definitions of conflicts of interest for members of the board and procedures in the case such a conflict arises, (c) role delineation for occupational therapy assistants, and (d) continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. Such requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed person may select as an alternative to continuing education.

(3) Except as provided in subsection (4) of this section, the department, with the approval of the board, shall adopt and promulgate rules and regulations to implement this legislative bill and shall provide for the changes regarding scope of practice to be implemented for licensees as soon as the rules and regulations become effective.

(4) The board may adopt and promulgate rules and regulations governing the training courses for an occupational therapist to be certified to administer a physical agent modality. The board may adopt and promulgate rules and regulations governing the training course for an occupational therapy assistant to be certified to set up and implement superficial thermal agent modalities. In adopting such rules and regulations, the board shall give consideration to the levels of training and experience which are required, in the opinion of the board, to protect the public health, safety, and welfare and to insure, to the greatest extent possible, the efficient, adequate, and safe practice of occupational therapy. Such rules and regulations shall include the approval of examinations and the passing score for such examinations for certification.

Sec. 131. Section 71-6115, Reissue Revised Statutes of Nebraska, is amended to read:

71-6115. ~~(1)~~ The Board of Occupational Therapy Practice is established. The board shall consist of at least four members appointed by the State Board of Health, all of whom shall be residents of this state. Any statewide association of occupational therapists may submit a list of names of qualified persons from which the State Board of Health may choose members of the Board of Occupational Therapy Practice. Three of the persons appointed shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointments. Two of the persons appointed shall be occupational therapists and one shall be either an occupational therapist or an occupational therapy assistant and all shall be holders of active licenses issued under the Occupational Therapy Practice Act during their terms. The fourth member shall be a member of the public with an interest in the rights of the consumers of health services. The members of the board shall serve five-year terms, except that the initial members of the board shall serve as follows: The member of the public shall serve one year and the remaining members shall serve terms of two, three, and four years as the State Board of Health shall designate. The term of each member shall commence on December 1 following the expiration of the preceding term. No person shall serve more than two full consecutive terms on the board. The State Board of Health shall fill any vacancy for an unexpired term in the same manner as the initial

appointment. The members shall not receive compensation but shall be reimbursed for their actual expenses incurred while in the performance of their duties in the same manner as state employees pursuant to sections 81-1174 to 81-1177. The board shall annually elect a chairperson and such other officers as it deems necessary and shall meet at least once per year or more as the department and board shall determine. Members of the board may be removed from office on the grounds and in the manner provided by section 71-118.

~~(2) The board, with the approval of the department, shall adopt and promulgate rules and regulations necessary to administer the Occupational Therapy Practice Act. The rules and regulations shall include (a) definitions of unprofessional conduct, (b) definitions of conflicts of interest for members of the board and procedures in the case such a conflict arises, (c) role delineation for occupational therapy assistants, and (d) continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. Such requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed person may select as an alternative to continuing education.~~

Sec. 132. Section 71-6721, Reissue Revised Statutes of Nebraska, is amended to read:

71-6721. For purposes of the Medication Aide Act:

(1) Ability to take medications independently means the individual is physically capable of (a) the act of taking or applying a dose of a medication, (b) taking or applying the medication according to a specific prescription or recommended protocol, and (c) observing and monitoring himself or herself for desired effect, side effects, interactions, and contraindications of the medication and taking appropriate actions based upon those observations;

(2) Administration of medication includes, but is not limited to (a) providing medications for another person according to the five rights, (b) recording medication provision, and (c) observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication;

(3) Caretaker means a parent, foster parent, family member, friend, or legal guardian who provides care for an individual;

(4) Child care facility means an entity or a person licensed under ~~sections 71-1908 to 71-1917~~ the Child Care Licensing Act;

(5) Competent individual means an adult who is the ultimate recipient of medication and who has the capability and capacity to make an informed decision about taking medications;

(6) Department means the Department of Health and Human Services Regulation and Licensure;

(7) Direction and monitoring means the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with the medication by a (a) competent individual for himself or herself, (b) caretaker, or (c) licensed health care professional;

(8) Facility means a health care facility or health care service as defined in section 71-413 or 71-415 or an entity or person certified by the Department of Health and Human Services Regulation and Licensure or the Department of Health and Human Services Finance and Support to provide home and community-based services;

(9) Five rights means getting the right drug to the right recipient in the right dosage by the right route at the right time;

(10) Health care professional means an individual for whom administration of medication is included in the scope of practice;

(11) Home means the residence of an individual but does not include any facility or school;

(12) Intermediate care facility for the mentally retarded has the definition found in section 71-421;

(13) Informed decision means a decision made knowingly, based upon capacity to process information about choices and consequences, and made voluntarily;

(14) Medication means any prescription or nonprescription drug intended for treatment or prevention of disease or to affect body function in humans;

(15) Medication aide means an individual who is listed on the medication aide registry operated by the Department of Health and Human Services Regulation and Licensure;

(16) Nonprescription drug has the definition found in section 71-1,142;

(17) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-422, 71-424, and 71-429;

(18) Prescription drug has the definition of prescription drug or device as found in section 71-1,142;

(19) Provision of medication means the component of the administration of medication that includes giving or applying a dose of a medication to an individual and includes helping an individual in giving or applying such medication to himself or herself;

(20) PRN means an administration scheme in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness;

(21) Recipient means a person who is receiving medication;

(22) Routine, with reference to medication, means the frequency of administration, amount, strength, and method are specifically fixed; and

(23) School means an entity or person meeting the requirements for a school set by Chapter 79.

Sec. 133. Section 71-6735, Reissue Revised Statutes of Nebraska, is amended to read:

71-6735. A facility shall be subject to discipline under the Health Care Facility Licensure Act or other relevant statutes for violation of the Medication Aide Act or the rules and regulations. A school shall be subject to discipline under Chapter 79 for violation of the Medication Aide Act or the applicable rules and regulations. A child care facility shall be subject to discipline under ~~sections 71-1908 to 71-1917~~ the Child Care Licensing Act for violation of the ~~act~~ Medication Aide Act or the rules and regulations.

Sec. 134. Section 71-8611, Reissue Revised Statutes of Nebraska, is amended to read:

71-8611. For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of blind persons, and stimulating blind persons to greater efforts in striving to make themselves self-supporting, the commission shall administer and operate vending facilities programs pursuant to the federal Randolph-Sheppard Act, as amended, 20 U.S.C. 107 et seq. Blind persons licensed by the commission pursuant to its rules and regulations are authorized to operate vending facilities in any federally owned building or on any federally owned or controlled property, in any state-owned building or on any ~~state-owned or controlled~~ property owned or controlled by the state, or on any property owned or controlled by any county, city, or municipally owned or controlled property municipality with the approval of the local governing body, when, in the judgment of the director of the commission, such vending facilities may be properly and satisfactorily operated by blind persons. With respect to vending facilities in any state-owned building or on any property owned or controlled by the state, priority shall be given to blind persons, except that this shall not apply to the Game and Parks Commission or the University of Nebraska. This priority shall only be given if the bid submitted is comparable in price to the other bids submitted and the qualifications and capabilities of the vendors bidding for a contract are found to be similar to the other bidders.

Sec. 135. Section 81-3201, Revised Statutes Supplement, 2003, is amended to read:

81-3201. (1) The Governor shall appoint a Director of Regulation and Licensure for the Department of Health and Human Services Regulation and Licensure who shall (a) have administrative experience in an executive capacity and some special training in public health work and (b) be either a graduate of a recognized school of medicine and licensed to practice medicine and surgery in the State of Nebraska or a person with a recognized and demonstrated expertise in and knowledge of health and human services delivery. The director shall report to the Governor and serve full time at the pleasure of the Governor. The director shall be subject to confirmation by a majority vote of the members of the Legislature as provided in section 81-102.

(2) If the director appointed under subsection (1) of this section is not a licensed physician, the Governor shall appoint a chief medical officer to be responsible for oversight of health issues for the Nebraska Health and Human Services System. The chief medical officer shall report to the Governor and serve full time at the pleasure of the Governor and shall be subject to confirmation by a majority of the members of the Legislature. The chief medical officer shall be a graduate of a recognized school of medicine and licensed to practice medicine and surgery in the State of Nebraska and have some special training in public health work. If a chief medical officer is appointed, he or she shall perform the duties under the Uniform Licensing Law specified in section 71-155.01 and shall be the final decisionmaker in



contested cases of (a) the health care facilities defined in the Health Care Facility Licensure Act arising under the act and sections 71-6042 and 81-604.03 and (b) occupations ~~referenced in sections 71-6038 and 71-6039~~ defined in subdivisions (3) and (5) of section 71-6038.

Sec. 136. Section 84-304, Revised Statutes Supplement, 2003, is amended to read:

84-304. It shall be the duty of the Auditor of Public Accounts:

(1) To give information in writing to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or with regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3) To examine or cause to be examined, in accordance with generally accepted government auditing standards for financial audits, as that term is defined in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons;

(4) (a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of any agricultural association formed under Chapter 2, article 20, county agricultural society, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, development district, drainage district, health district, local public health department as defined in section 71-1626, historical society, hospital authority or district, county hospital, housing agency as defined in section 71-1575, irrigation district, county or municipal library, community mental health center, railroad transportation safety district, rural water district, township, Wyuka Cemetery, any village, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act which has separately levied a property tax based on legal authority for a joint public agency to levy such a tax independent of the public agencies forming such joint public agency.

(b) The Auditor of Public Accounts may waive the audit requirement of subdivision (4) (a) of this section upon the submission by the political subdivision of a written request in a form prescribed by the auditor. The auditor shall notify the political subdivision in writing of the approval or denial of the request for a waiver;

(5) To report promptly to the Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. In addition, if, in the normal course of conducting an audit in accordance with generally accepted government auditing standards for financial audits, as that term is defined in the Electronic Codification of Government Auditing Standards as of July 1999, published by the Comptroller General of the United States, General Accounting Office, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them in writing to the Legislative Performance Audit Committee which may investigate the issue further, report it to the appropriate standing committee of the Legislature, or both;

(6) (a) To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire

protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement. Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

(c) Whenever the expenditures of a fire protection district exceed one hundred fifty thousand dollars in a fiscal year, the auditor may waive the audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver. Upon approval of the request for waiver, a new five-year audit period shall begin for the fire protection district if its expenditures are one hundred fifty thousand dollars or less per fiscal year in subsequent years;

(7) To appoint two assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be certified public accountants with at least five years' experience, (c) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (d) who shall promptly report in duplicate to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State;

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

(9) To conduct all audits and examinations in a timely manner and in accordance with the standards for audits of governmental organizations, programs, activities, and functions published by the Comptroller General of the United States;

(10) To develop a plan for implementing on-line filing of budgeted and actual financial information by political subdivisions. Such plan shall describe the technology and staff resources necessary to implement on-line filing of such information and the costs of these resources. Such plan shall be presented to the Clerk of the Legislature on or before January 15, 2003;

(11) To develop and maintain an annual budget and actual financial information reporting system that is accessible on-line by the public; and

(12) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205.

Sec. 137. The University of Nebraska Medical Center Medical Education Revolving Fund is hereby established to be administered by the Department of Health and Human Services Finance and Support. The fund shall be used to fund medical education. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 138. Sections 1, 53, 62 to 65, 136, and 140 of this act become operative on July 1, 2004. Sections 41, 44 to 52, 141, and 144 of this act become operative on January 1, 2005. Sections 2 to 9, 11 to 40, 43, 54 to 61, 66 to 98, 109, 120 to 134, 137, 139, and 143 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 139. Original sections 68-1036.02, 71-101, 71-110.01, 71-185.03, 71-190, 71-1,142, 71-1,143.01, 71-1,146, 71-1,147.33, 71-1,155, 71-341, 71-342, 71-356.04, 71-365.01, 71-368, 71-371, 71-385.01, 71-387, 71-389, 71-3,102, 71-3,105, 71-3,106.01, 71-3,137, 71-3,139 to 71-3,141, 71-3,145, 71-3,147, 71-3,150, 71-3,169, 71-3,177, 71-3,179, 71-428, 71-542, 71-604.05, 71-612, 71-617.05, 71-617.15, 71-627, 71-628, 71-634, 71-1903,

71-1908 to 71-1912, 71-1914 to 71-1917, 71-3601 to 71-3603, 71-3608 to 71-3614, 71-5301, 71-5707, 71-6101, 71-6103, 71-6104, 71-6113, 71-6115, 71-6721, 71-6735, and 71-8611, Reissue Revised Statutes of Nebraska, sections 28-414, 43-107, 43-3344, and 43-3346, Revised Statutes Supplement, 2002, and section 29-2264, Revised Statutes Supplement, 2003, are repealed.

Sec. 140. Original sections 71-501, 71-1626, 71-1628.04, 71-1628.08, and 71-1636, Reissue Revised Statutes of Nebraska, and sections 13-518 and 84-304, Revised Statutes Supplement, 2003, are repealed.

Sec. 141. Original sections 71-401, 71-448, 71-460, and 71-461, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 142. Original sections 71-162, 71-409, 71-5651 to 71-5654, 71-5661 to 71-5663, 71-5665, 71-5666, 71-5668, and 71-6038 to 71-6042, Reissue Revised Statutes of Nebraska, and section 81-3201, Revised Statutes Supplement, 2003, are repealed.

Sec. 143. The following sections are outright repealed: Sections 71-3,138.01, 71-616.05, and 71-617.14, Reissue Revised Statutes of Nebraska, and sections 43-3342.07 and 43-3343, Revised Statutes Supplement, 2002.

Sec. 144. The following section is outright repealed: Section 71-463, Reissue Revised Statutes of Nebraska.

Sec. 145. The following sections are outright repealed: Sections 71-6014 and 71-6015, Reissue Revised Statutes of Nebraska.

Sec. 146. Since an emergency exists, this act takes effect when passed and approved according to law.