

## LEGISLATIVE BILL 1064

Approved by the Governor April 7, 1990

Introduced by Wesely, 26

AN ACT relating to public health and welfare; to amend sections 71-128, 71-129, 71-161.06, and 71-6023.01, Reissue Revised Statutes of Nebraska, 1943, sections 71-125, 71-138, 71-175, 71-1,104, 71-1,278, 71-2803, 71-3507, 71-3508.03, and 71-3515.02, Revised Statutes Supplement, 1988, and sections 71-110, 71-131, 71-133, 71-162, 71-174, 71-178, 71-1,279, 71-3503, 71-3505, 71-5502, 71-5509, 71-5510, 71-5513, 71-5514, 71-5517, 71-5520, and 71-5521, Revised Statutes Supplement, 1989; to change, provide, and eliminate provisions relating to examination and other requirements for licensure and certification of and payment of fees by certain health professionals and for certain health-related activities; to require long-term care hospitals to meet conditions relating to retention of medicaid residents; to authorize special care providers to perform routine health care maintenance procedures for individuals with developmental disabilities; to define terms; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 71-130 and 71-135 to 71-137, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 71-110, Revised Statutes Supplement, 1989, be amended to read as follows:

71-110. (1) The different licenses or certificates to practice a profession shall be renewed biennially, except as provided in sections 71-1,228, 71-1,263, 71-1,275, and 71-1,294, upon request of the licensee or certificate holder without examination. The biennial license or certificate renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the board, shall establish by rule and regulation. The biennial expiration date in the different professions shall be as

follows: January, pharmacy and psychology; February, embalming and funeral directing; March, dentistry and dental hygiene; April, podiatry and veterinary medicine and surgery; May, athletic training; June, respiratory care; August, chiropractic and optometry; September, dietetics and nutrition, osteopathic medicine, and professional counseling; October, medicine and surgery and social work; November, massage therapy and physical therapy; and December, audiology and speech-language pathology. The request for renewal need not be in any particular form and shall be accompanied by the legal fee. Such fee shall be paid not later than the date of the expiration of such license or certificate, except that while actively engaged in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940 as amended, persons licensed or certified to practice the professions above named listed in this subsection shall not be required to pay the renewal license or certificate fee.

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

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

or certificate from inactive to active status, an individual shall complete the continuing education requirements in effect at the time he or she wishes to regain active status and pay the renewal fee then due.

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

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

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

Sec. 2. That section 71-125, Revised Statutes Supplement, 1988, be amended to read as follows:

71-125. Any person desiring to take the examination for a license or certificate licensure or certification to practice a profession shall make application to the department or to the organization specified by the department at least thirty days prior to examination on a form provided by the department and sworn to by the applicant or such organization. Such

application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidates to take such examination. All applications shall be in accordance with the rules and regulations of the department or such organization. When a national or standardized examination is required, the department may direct the applicant to apply directly to the organization administering the examination to take the examination. Applicants graduating from accredited professional schools less than thirty days preceding the date set for their examination may file their application, accompanied by a statement from one authorized to speak, that the applicant has completed and successfully passed any examinations and in due time will receive a diploma. Upon the payment of the applicable fee, the application may thereupon be received, but before an applicant can be licensed, he or she shall file a photostatic copy of his or her diploma or official transcript which shows that he or she has graduated.

Sec. 3. That section 71-128, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-128. The Department of Health department shall prepare and keep up to date a list of accredited colleges in which are taught the professions which are regulated by the Uniform Licensing Law. The board of examiners shall make recommendations relative thereto and shall approve the list for the profession for which it gives examinations. No school shall be accredited without the formal action of the department and the board of examiners for the profession which that school teaches. Any professional school or college whose graduates or students desire to take the Nebraska State Board state board examination shall supply the department with the necessary data to allow the board of examiners and the department to determine whether that school should be accredited. The Department of Health department may adopt any nationally developed standard national examination as constituting to constitute part of or all of the Nebraska state board licensure or certification examination for any of the professions which are regulated by the Uniform Licensing Law. Such examination shall be ; so long as such examination is approved by the board of examiners for the profession involved and certified by such board as being a part of or all of that board's examination the examination for licensure or certification.

Sec. 4. That section 71-129, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

71-129. The regular sessions for the purposes of giving examinations Examinations for licensure or certification shall be held on such dates and at such times and places as the department or the organization specified by the department may fix; set. Such dates, times, and places as set by the department shall not to exceed four in any one year; except as provided in section 71-133 for dentistry. Examinations may be held in any professional school or college or program or at any other location; at the discretion of as determined by the department or the organization specified by the department. Any 7 and any examination may be held concurrently in two or more places to accommodate the applicants therefor. Special examinations may be held given at the expense of the applicant as may be provided and administered by the department, the organization specified by the department, or the and board of examiners in that particular profession.

Sec. 5. That section 71-131, Revised Statutes Supplement, 1989, be amended to read as follows:

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

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

(b) An examinee who fails to comply with subdivision (a) of this subsection a licensure or certification examination may take retake the entire examination over without charge at any time within fourteen months; except that in the case in which a national standardized examination is utilized by any examining board, which requires the payment of a fee to purchase such examination; the department shall require the applicant to pay the appropriate examination fee or the part failed upon payment of the licensure or certification fee each time he or she is examined. The department shall withhold from the licensure or certification fee the cost of any national examination used and the administrative fee authorized in section 71-163 when an examinee fails a licensure or certification examination and shall return to the

examinee the remainder of the licensure or certification fee collected, except that: (i) If the state-developed jurisprudence portion of the licensure or certification examination was failed, the examinee may retake that portion without charge; and (ii) if any component of a national examination was failed, the examinee shall be charged the cost for purchasing such examination.

(2) In pharmacy all applicants shall be required to attain a grade to be determined by the Board of Examiners in Pharmacy in an examination in pharmacy and a grade of seventy-five in an examination in jurisprudence of pharmacy. When an applicant fails below the designated grade in one of the two examinations, the applicant may take that examination over without charge at any time within fourteen months at any regular session of such board held for the purpose of giving examinations or at the first regular session of the board held for the purpose of giving examinations thereafter if not held within that time. If an applicant fails below the designated grade in both the examination in pharmacy and the examination in jurisprudence of pharmacy, the applicant shall take both examinations over and the applicant may do this without charge at any time within fourteen months at any regular session of the board held for the purpose of giving examinations or at the first regular session of the board held for the purpose of giving examinations thereafter if not held within that time. Notwithstanding any provision of this section, whenever the Board of Examiners in Pharmacy utilizes a national standardized examination, which requires the payment of a fee to purchase such examination, the department shall require the applicant to pay the appropriate examination fee.

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

(4) In professional counseling the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Professional Counseling by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without

examination pursuant to section 71-1,271 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(5) In medicine and surgery applicants taking the examination for the first time for licensure in this state in medicine and surgery or osteopathic medicine and surgery shall take the entire examination in one administration period. When an applicant fails below the designated grade or grades for the entire examination, the applicant may take the entire examination over at any regular session of the board held for the purpose of giving examinations. Applicants who fall below the designated grade in a separate component of the examination may retake only that component at any regular session of the board held for the purpose of giving component examinations. No applicant may retake any separate component of or the entire examination for licensure more than three times without first providing documentation of successful completion of one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. No more than seven years shall lapse between initial examination of an applicant and successful completion by an applicant of all components of the examination for licensure in medicine and surgery or osteopathic medicine and surgery. A passing grade or score for a component shall become invalid at the end of a period of seven years. Fees for examination shall be determined by the department upon the recommendation of the Board of Examiners in Medicine and Surgery in amounts necessary to cover the actual cost of the examination and expenses of administration. Separate fees shall be established in the same manner for reexamination for the entire examination and for reexamination for any separate component of the examination.

(6) In psychology fees for reexamination shall be the same as the fee for the initial examination.

(7) In chiropractic fees for reexamination shall be the same as the fee for the initial examination.

(8) In athletic training fees for reexamination shall be the same as the fee for the initial examination. If an applicant fails the first examination, the applicant shall, after the expiration of six months and within two years from the first failure, be allowed to take a second examination upon payment of the examination fee. Applicants failing the second examination may take the examination a third time

if the applicant qualifies under the rules and regulations of the department in effect at the time of his or her application for reexamination-

(9) In respiratory care fees for reexamination shall be the same as the fee for the initial examination-

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

Sec. 6. That section 71-133, Revised Statutes Supplement, 1989, be amended to read as follows:

71-133. (1) Except in dentistry, the oral or practical work portion of any examination regulated for licensure or certification under the Uniform Licensing Law shall be given by a majority of the members of the board giving such examination for the respective profession except in dentistry. The oral examination questions shall be limited to the practice of the profession. The members of the board need not be present at the examination given to applicants when a national standardized examination or any other written examination is utilized. Such board may delegate the administration of such examination to the department. The department may designate an organization to administer a national or written examination.

(2) In dentistry, the final practical examination in clinical dentistry may be given at the infirmary of each of the dental colleges, schools, or departments legally conducted in the State of Nebraska of which the applicant is a graduate. The Central Regional Dental Testing Service practical examination may be used to meet the requirement of a final practical examination for dentists and for dental hygienists. Any person who applies for a license to practice dentistry or dental hygiene who has failed on one occasion to pass the oral practical examination administered by the Board of Examiners in Dentistry shall be required to subsequently take and pass the Central Regional Dental Testing Service practical examination before the department shall consider the applicant's qualifications for a license to practice dentistry or dental hygiene in the State of Nebraska. Any person who applies for a



license to practice dentistry or dental hygiene who has failed on two occasions to pass any part of the examination shall be required to complete a course in clinical dentistry approved by the Board of Examiners in Dentistry board before the department shall consider the results of a third examination as a valid qualification for a license to practice dentistry or dental hygiene in the State of Nebraska.

Sec. 7. That section 71-138, Revised Statutes Supplement, 1988, be amended to read as follows:

71-138. (1) All question and answer papers or sheets or photostatic or other copies of such question and answer papers or sheets, connected with any examination for a license or certificate, licensure or certification shall be filed with maintained by the department, national organization, or testing service and preserved for a period of two years as a part of its records or, whenever from the date of administration of the examination. When national standardized examinations that are governed by security considerations are utilized, they shall be available from the developing testing service for a period of two years, during which time such question and answer papers or sheets shall be open to inspection by an applicant, by the dean of his or her college or training school, or by any other proper representative of such college or training school as determined by rules and regulations which the department may adopt and promulgate or his or her designee. Any question and answer sheets for any national standardized machine-graded or computer-scored examination questions or answers which are protected by security agreements, copyright provisions, or departmental or state contractual agreements for use shall not be required to be on file with the department, but shall be available for a period of two years, upon demand, from any testing service utilized, at the discretion of the department or upon order of a court of competent jurisdiction.

(2) The department, upon the recommendation of the board of examiners, may adopt and promulgate rules and regulations: (a) To provide for the review of procedures for the development and administration of examinations; (b) to govern the administration of all or separate components of examinations for licensure or certification; (c) and to protect the security of the content of examination questions and answers; and (d) to provide for the review of the examination question and answer sheets by examinees who fail the licensure or certification examinations or their designees. The

department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from that service detailed documentation of the process of examination development and maintenance.

Sec. 8. That section 71-161.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

Sec. 9. That section 71-162, Revised Statutes Supplement, 1989, be amended to read as follows:

71-162. (1) The following fees shall be collected by the department and ~~turned in~~ remitted to the state treasury as is now provided by law:

(a) Not less than fifty dollars nor more than three hundred dollars for a license issued on the basis of an examination given by the ~~appropriate state or national board of examiners~~ department or organization

specified by the department or for a license issued on the basis of a license granted by another state or territory to practice dental hygiene, athletic training, respiratory care, embalming, physical therapy, dentistry, podiatry, optometry, pharmacy, chiropractic, audiology, speech-language pathology, massage therapy, or funeral directing and for a license to practice psychology issued on the basis of such an examination or foreign license, one hundred dollars plus actual costs incurred in issuing the license, as determined by the department, except that the total fee shall not exceed four hundred dollars audiology, athletic training, chiropractic, dental hygiene, dentistry, embalming, funeral directing, massage therapy, optometry, pharmacy, physical therapy, podiatry, respiratory care, speech-language pathology, or veterinary medicine;

(b) Not less than twenty one hundred dollars nor more than four hundred dollars for the biennial renewal of a license issued on the basis of examination or on the basis of a license granted by another state or territory to practice medicine and surgery, osteopathic medicine and surgery, or as an osteopathic physician; or any of the professions enumerated in subdivision (a) of this subsection psychology;

(c) For a license to practice medicine and surgery, osteopathic medicine and surgery, or as an osteopathic physician issued upon the basis of an examination given by the board of examiners, three hundred dollars; and this may be adjusted by the department upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses Not less than three hundred dollars nor more than four hundred seventy-five dollars for a license issued on the basis of examination given by the department or organization specified by the department to practice medicine and surgery or osteopathic medicine, and two hundred dollars for a license issued on the basis of a license granted by another state or territory to practice medicine and surgery or osteopathic medicine;

(d) For a license to practice medicine and surgery, osteopathic medicine and surgery, or as an osteopathic physician issued without examination based on a license granted in another state or territory or the District of Columbia, two hundred dollars; and this may be adjusted by the department upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses;

(e) For a certificate as a certified professional counselor, not to exceed two hundred fifty

dollars nor less than one hundred twenty-five dollars. The fee for renewal of a certificate as a certified professional counselor shall not exceed one hundred seventy-five dollars nor be less than one hundred dollars. The fee for certification by reciprocity shall not exceed two hundred fifty dollars nor be less than one hundred twenty-five dollars;

~~(f)~~ (e) For a certificate as a certified master social worker, not to exceed two hundred twenty-five dollars nor less than one hundred dollars. The fee for a certificate as a certified social worker shall not exceed one hundred seventy-five dollars nor be less than one hundred dollars. The fee for renewal of a certificate as a certified master social worker shall not exceed one hundred seventy-five dollars nor be less than one hundred dollars. The fee for renewal of a certificate as a certified social worker shall not exceed one hundred fifty dollars nor be less than seventy-five dollars. The fee for certification by reciprocity shall not exceed two hundred dollars nor be less than one hundred dollars;

~~(g)(1)~~ (f)(i) For a license to operate a massage therapy school, not less than one hundred dollars nor more than three hundred dollars, and for renewal of a license, not less than one hundred dollars nor more than three hundred dollars, and (ii) for a license to operate a massage therapy establishment, not less than one hundred dollars nor more than three hundred dollars, and for renewal of a license, not less than one hundred dollars nor more than four hundred dollars;

(h) (g) For a certificate as a certified nutritionist, not to exceed two hundred fifty dollars nor less than fifty dollars. The fee for renewal of a certificate as a certified nutritionist shall not exceed one hundred dollars nor be less than twenty dollars. The fee for certification by reciprocity shall not exceed two hundred fifty dollars nor be less than fifty dollars;

(h) Not less than twenty dollars nor more than four hundred dollars for the biennial renewal of a license to practice medicine and surgery, osteopathic medicine, psychology, or any of the professions enumerated in subdivision (a) of this subsection;

(i) For a certified statement that a licensee or certificate holder is licensed or certified in this state, five dollars, and for verification that a licensee or certificate holder is licensed or certified in this state, two dollars; and

(j) For a duplicate original or reissued license or certificate, five dollars, except that for a duplicate original or reissued license or certificate to practice psychology the fee shall be ten dollars.

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

(2) The department, upon the recommendation of the appropriate examining board, shall determine the exact fee to be charged for a license licensure or license renewal or certificate certification or certificate renewal in each profession enumerated in subdivisions (1)(a), (b), (c), (d), (g), and (h) subsection (1) of this section, based on the administrative costs incurred by the board. Such board may provide differing rates for licenses issued on the basis of an examination and licenses issued on the basis of a license from another state or territory or the District of Columbia.

Sec. 10. That section 71-174, Revised Statutes Supplement, 1989, be amended to read as follows:

71-174. Section 71-173 shall not be construed to include (1) licensed physicians and surgeons or licensed osteopathic physicians, ~~or~~ (2) physicians and surgeons of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state, or (3) students who have not graduated from a school of podiatry and are enrolled in an approved and accredited school of podiatry when the services performed are a part of the course of study and are under the direct supervision of a licensed podiatrist.

Sec. 11. That section 71-175, Revised Statutes Supplement, 1988, be amended to read as follows:

71-175. Every applicant for a license to practice podiatry shall (1) present proof of graduation from a school of chiropody or podiatry approved by the department on recommendation of the board of examiners and (2) pass a written examination prescribed by the board in the subjects of anatomy, physiology, pathology, bacteriology, chemistry, pediatry, diagnosis and treatment, therapeutics, materia medica, clinical podiatry, asepsis, and surgery, but such subjects shall be limited in their scope to the treatment of the foot. Upon the recommendation of the Board of Examiners in Podiatry and in lieu of the written examination, the department shall accept a certificate of examination

issued by the National Board of Podiatry Examiners which consists of (a) parts I and II of the examination given by the National Board of Podiatric Medical Examiners and (b) the written examination prescribed by the Board of Examiners in Podiatry. Every applicant for a license upon the basis of such certificate to practice podiatry shall be required to pay the fee prescribed in section 71-162, for licenses issued in podiatry based upon an examination held by the National Board of Podiatry Examiners-

Sec. 12. That section 71-178, Revised Statutes Supplement, 1989, be amended to read as follows:

71-178. Section 71-177 shall not be construed to include the following classes of persons: (1) Licensed physicians and surgeons and licensed osteopathic physicians who are exclusively engaged in the practice of their respective professions; and (2) physicians of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state; (3) or chiropractors licensed in another state when incidentally called into this state in consultation with a chiropractor licensed in this state; or (4) students enrolled in an accredited college of chiropractic when the services performed are a part of the course of study and are under the direct supervision of a licensed chiropractor.

Sec. 13. That section 71-1,104, Revised Statutes Supplement, 1988, be amended to read as follows:

71-1,104. (1) Each applicant for a license to practice medicine and surgery shall (i) (a)(i) present proof that he or she is a graduate of an accredited school or college of medicine, (ii) or, if a foreign medical graduate, provide a copy of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates that is currently effective and relates to such applicant; or provide such credentials as are necessary to certify that such a foreign medical graduate has successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service, or, (iii) if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination; but

has not yet received the permanent certificate attesting to the same, provide such credentials as certify the same to the Department of Health, (2) (b) present proof that he or she has served at least one year of graduate medical education approved by the Board of Examiners in Medicine and Surgery or, if a foreign medical graduate, present proof that he or she has served at least three years of graduate medical education approved by the Board of Examiners in Medicine and Surgery board, and (3) (c) pass an examination prescribed and conducted by the Board of Examiners in Medicine and Surgery board and approved by the Department of Health department covering appropriate medical subjects.

(2) The Department of Health department, upon the recommendation of the Board of Examiners in Medicine and Surgery board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (2) (1)(b) of this section, if the applicant has served at least one year of graduate medical education approved by such board and if the following conditions are met: (a) The applicant meets all other qualifications for a license to practice medicine and surgery; (b) the applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and (c) the applicant submits proof that he or she will enter into the practice of medicine in a medical shortage area designated as such by the Commission on Rural Health Manpower immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.

(3) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the medical shortage area and such other limitations, if any, deemed appropriate under the circumstances by the Director of Health, upon recommendation of the Board of Examiners in Medicine and Surgery board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the Department of Health department for removal of the limitations. The Director of Health director, upon the recommendation of

the Board of Examiners in Medicine and Surgery board, may grant or deny such application or may continue the license with limitations. The fee for a license to practice medicine and surgery based on a waiver of the requirement of more than one year of graduate medical education and the renewal of such license shall be the same as the fees prescribed in ~~subdivision (1)(b); (c); or (d)~~ of section 71-162.

(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the Department of Health department may take disciplinary action against a license, granted on the basis of a waiver of the requirement of more than one year of graduate medical education, for violation of the limitations on the license. The Department of Health department, upon the recommendation of the Board of Examiners in Medicine and Surgery board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.

Sec. 14. That section 71-1,278, Revised Statutes Supplement, 1988, be amended to read as follows:

71-1,278. (1) For purposes of sections 71-1,278 to 71-1,284, unless the context otherwise requires:

(a) An approved massage therapy school shall be (i) one which is approved by the Department of Health department upon the recommendation of the Board of Examiners in Massage Therapy, (ii) one which requires for admission a diploma from an accredited high school or its equivalent, (iii) one which has attached to its staff a regularly licensed physician and employs one or more competent massage therapists as instructors, and (iv) one which has a minimum requirement of a continuous course of study and training of not less than one thousand hours, distributed over a term of ~~up to twelve~~ not less than nine months. Such study and training shall consist of one hundred hours of each of the following: Physiology; anatomy; massage; pathology; hydrotherapy; hygiene and practical demonstration; and health service management. The remaining three hundred hours shall be obtained in subject areas related to the clinical practice of massage therapy;

(b) Massage therapist shall mean a person licensed to practice massage therapy;

(c) Massage therapy shall mean the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle



relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy. ~~It~~ Massage therapy shall not include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry is required nor the use of microwave diathermy, shortwave diathermy, ultrasound, transcutaneous electrical nerve stimulation, electrical stimulation of over thirty-five volts, neurological hyperstimulation, or spinal and joint adjustments; and

(d) Massage therapy establishment shall mean any duly licensed place in which a massage therapist practices his or her profession of massage therapy.

(2) The Department of Health department shall adopt and promulgate rules and regulations as it may deem necessary with reference to the conditions under which the practice of massage therapy shall be carried on and the precautions necessary to be employed to prevent the spread of infectious and contagious diseases. The department shall have the power to enforce sections 71-1,278 to 71-1,284 and all necessary inspections in connection therewith.

Sec. 15. That section 71-1,279, Revised Statutes Supplement, 1989, be amended to read as follows:

71-1,279. Section 71-1,278 shall not be construed to include the following classes of persons:

(1) Licensed physicians and surgeons, osteopathic physicians, chiropractors, registered nurses, practical nurses, cosmetologists, chiropodists, physical therapists, and barbers who are exclusively engaged in the practice of their respective professions; and (2) physicians of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state; and (3) students performing massage therapy services when they render such services within the scope of an approved massage therapy school under the supervision of a licensed massage therapist.

Sec. 16. That section 71-2803, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2803. Every applicant for a license to practice physical therapy shall:

(1) Present proof of having completed a four-year course in an accredited high school or its equivalent;

(2) Present proof of completion of an approved educational program as defined in section 71-2804;

{3} (2) In the case of an applicant who has been trained as a physical therapist in a foreign country, (a) present documentation of completion of a course of professional instruction substantially equivalent to an approved program accredited by the American Physical Therapy Association or by an equivalent accrediting agency as determined by the Board of Examiners in Physical Therapy and (b) present proof of proficiency in the English language; and

{4} (3) Except as provided in section 71-2805, successfully complete an examination approved by the department on the recommendation of the Board of Examiners in Physical Therapy board.

Sec. 17. That section 71-3503, Revised Statutes Supplement, 1989, be amended to read as follows:

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

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

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

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

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

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

devices which emit radiation only from radioactive material;

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

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

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

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

(8) Department shall mean the Department of Health;

(9) Coordinator shall mean the Director of Health;

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

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

(12) License shall mean:

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

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

(13) Byproduct material shall mean:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by

exposure to the radiation incident to the process of producing or utilizing special nuclear material; or

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;

(14) Source material shall mean:

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

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

(15) Special nuclear material shall mean:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235, but shall not include source material; or

(b) Any material artificially enriched by any such materials, but shall not include source material;

(16) Users of sources of radiation shall mean:

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

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

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

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

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

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

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

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

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

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

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

(22) High-level radioactive waste shall mean:

(a) Irradiated reactor fuel;

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

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

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

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

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

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

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

and other radioactive material associated with fuel assemblies;

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

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

(30) X-ray system shall mean medical equipment which performs radiographic functions on humans by using ionizing radiation for diagnostic purposes, excluding nuclear medicine and radiation therapy procedures, an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system shall be considered integral parts of the system.

Sec. 18. That section 71-3505, Revised Statutes Supplement, 1989, be amended to read as follows:

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

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section 71-3507 or 71-3509 and (b) for registration or licensure of (i) any other source of radiation, (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, and (iii) persons providing services to reduce the effects of sources of radiation, as specified by rule or regulation so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing,

transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, radiologic technologists, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

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

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

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

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

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

(7) Be empowered to inspect radiation sources

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

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

(9) Develop a program which establishes policies, requirements, and standards for appropriate education, training, written testing, and practical testing of persons operating an X-ray system.

Sec. 19. That section 71-3507, Revised Statutes Supplement, 1988, be amended to read as follows:

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

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

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

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

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



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

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

(2) The department may require registration or licensing of radioactive material not enumerated in subsection (1) of this section and may require registration or licensure of persons providing measurement and mitigation services of radon or its decay products.

(3) The department may exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements when the department finds that the exemption will not constitute a significant risk to occupational and public health and safety and the environment.

(4) The department may provide by rule and regulation for the recognition of other state or federal licenses; subject to such recognition requirements as the department may prescribe.

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

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

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

(b) Registration of sources of radiation shall be an initial registration with appropriate notification to the department in the case of alteration of

equipment, acquisition of new sources of radiation, or the transfer, loss, or destruction of sources of radiation and shall include the registration of persons installing or servicing sources of radiation;

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

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

(7) The results of any surveys or inspections of sources of radiation conducted by the department may be withheld from public inspection if disclosure of its contents is not required in the public interest and would adversely affect the interest of a person concerned. The department shall make such reports of results of surveys or inspections available to the owner or operator of the source of radiation; together with any recommendations of the department regarding deficiencies noted.

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

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

Sec. 20. That section 71-3508.03, Revised Statutes Supplement, 1988, be amended to read as follows:

71-3508.03. (1) The department shall establish by rule and regulation annual fees for the radioactive materials licenses, for inspections of radioactive materials, and for the registration and inspection of radiation-generating equipment and other sources of radiation under the Radiation Control Act, except that the annual fee for registration and inspection of X-ray radiation-generating equipment shall not exceed seventy dollars per X-ray machine. ~~The annual fee for registration and inspection of X-ray radiation-generating equipment shall terminate on September 17, 1991.~~ In determining such fees, the department shall, as an objective, obtain sufficient funds from the fees to pay for a portion of the direct

and indirect costs of administering the Radiation Control Act without loss or reduction of the General Fund allocation to the department. No fee shall exceed the actual cost to the department for licensure, inspection, or registration. The department may also contract with a registrant, a licensee, another state, or a federal agency to partially or fully recover the cost of administering the Radiation Control Act. The fees collected shall be deposited in the Department of Health Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering the Radiation Control Act. The department shall collect such fees. The cost of environmental surveillance activities performed by the department to assess the radiological impact of activities conducted by licensees and registrants shall be in addition to the annual fees.

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

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

Sec. 21. That section 71-3515.02, Revised Statutes Supplement, 1988, be amended to read as follows:

71-3515.02. (1) The department shall adopt and promulgate rules and regulations which delineate the course of instruction for educational programs in radiation use and safety for operators of X-ray systems. Such courses shall include, but not be limited to, fundamentals of radiation, radiation safety, radiation detection instrumentation, operation and control of X-ray equipment, radiation protection, and federal and state regulations. The department shall recognize equivalent courses of instruction, including continuing education, successfully completed by individuals who are credentialed by the department when determining if the requirements of subdivision (1)(c) of section 71-3515.01 have been met.

(2) The department shall adopt and promulgate rules and regulations regarding the testing required in subdivision (1)(c)(ii) of section 71-3515.01. Such

rules and regulations shall provide for the development and administration of written and practical tests, procedures to be followed for testing, the method of grading and the passing grades for such tests, security protection for test questions and answers, and the contents of such tests based on the course requirements prescribed in subsection (1) of this section.

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

Sec. 22. That section 71-5502, Revised Statutes Supplement, 1989, be amended to read as follows:

71-5502. For purposes of the Emergency Medical Technician-Paramedic Act, unless the context otherwise requires:

(1) Approved licensed physician shall mean an individual who:

(a) Is licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107 or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141;

(b) Is qualified and knowledgeable in the management of emergency care and services; and

(c) Is currently certified as an advanced cardiac life-support provider or instructor by a national organization which has procedures for certifying such providers or instructors, such as the American Heart Association;

(2) Approved training program shall mean a program for the education and training of an emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic which the board and department approve;

(3) Board shall mean the Board of Advanced Emergency Medical Care;

(4) Department shall mean the Department of Health;

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

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

(7) Physician shall mean an individual licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107 or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141;

(8) Approved physician surrogate shall mean a qualified, trained medical person, such as a registered nurse or physician assistant, designated by an approved licensed physician in writing to act as a substitute for the physician in directing the actions of an emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic and approved as such by the service program medical director and the board;

(9) Emergency medical technician-intermediate shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Meets all the requirements for certification as a duly certified ambulance attendant pursuant to sections 71-5109 and 71-5110;

(c) Is trained in an approved training program to administer intravenous solutions and perform endotracheal airway management and other authorized aids to ventilation, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(d) Has been examined and certified as an emergency medical technician-intermediate by the board and the department to provide advanced emergency care described in subsection (2) of section 71-5520;

(10) Emergency medical technician-paramedic shall mean a person who:

(a) Meets the requirements of subdivisions (9)(a) through (c) of this section;

(b) Is trained in an approved training program to provide advanced cardiac life support, to administer

drugs under written or oral authorization of an approved licensed physician, and to perform any of the procedures described in subsection (3) of section 71-5520, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(c) Has been examined and certified as an emergency medical technician-paramedic by the board and the department to provide advanced emergency medical care described in subsection (3) of section 71-5520;

(11) Emergency medical technician-D shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Meets all the requirements for certification as a duly certified ambulance attendant pursuant to sections 71-5109 and 71-5110;

(c) Is trained in an approved training program to manually determine the need for and administer cardiac electrical countershock in the treatment of asystole, ventricular fibrillation, or ventricular tachycardia with collapse, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(d) Has been examined and certified as an emergency medical technician-D by the board and the department to provide advanced emergency medical care described in subsection (1) of section 71-5520;

(12) Trainee shall mean any person who is currently enrolled in an approved training program for emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic; and certified as a trainee by the board and the department;

(13) Field supervisor shall mean any emergency medical technician-paramedic, emergency medical technician-intermediate, registered nurse, physician assistant, or approved licensed physician, employed by or acting as an agent of an approved training program, who supervises trainees in an approved training program and who has been certified as a field supervisor by the board and the department by virtue of having met all requirements established by the board for such certification;

(14) Approved service program shall mean an organized emergency medical response or transportation unit, or both, which utilizes the services of persons

certified as emergency medical technicians-D, emergency medical technicians-intermediate, or emergency medical technician-paramedics and which has been approved as such by the board and the department. Approved service program shall include military emergency services operating in cooperation with surrounding communities;

(15) Service program medical director shall mean an approved licensed physician who shall be responsible for the overall medical control of an approved service program;

(16) Supervising physician shall mean an approved licensed physician designated by the service program medical director to supervise advanced emergency medical care technicians by means of radio, telephone, and other approved communications systems whenever the technicians are providing prehospital care;

(17) Technician shall mean a person who renders advanced emergency care, rescue, and resuscitation services and who meets all the requirements for certification as a duly certified ambulance attendant pursuant to sections 71-5109 and 71-5110; and

(18) Training program medical director shall mean an approved licensed physician appointed by the governing body of the accredited community college, college, or university administering the approved training program who shall be responsible for the overall medical direction of the approved training program.

Sec. 23. That section 71-5509, Revised Statutes Supplement, 1989, be amended to read as follows:

71-5509. With the approval of the department and the board, as evidenced by a certificate from the Bureau of Examining Boards of the department specifying the same, emergency medical technicians-D, emergency medical technicians-intermediate, emergency medical technician-paramedics, ~~trainees~~, and field supervisors may render advanced emergency medical care, rescue, and resuscitation services within the limits of their respective certifications as described in sections 71-5502 and 71-5520. A trainee currently enrolled in an approved training program may render, under direct supervision of a field supervisor, advanced emergency medical care, rescue, and resuscitation services in accordance with criteria established by the approved training program and approved by the department and the board.

Sec. 24. That section 71-5510, Revised

Statutes Supplement, 1989, be amended to read as follows:

71-5510. (1) Except as provided in subdivision (2)(a) of section 71-5508, when voice contact or a telemetered electrocardiogram is monitored by an approved licensed physician or an approved physician surrogate and direct communication is maintained, an emergency medical technician-D, emergency medical technician-intermediate, emergency medical technician-paramedic, ~~trainee~~, or field supervisor may upon order of such physician or upon standing orders of such a physician and transmitted by such physician surrogate perform that type of advanced emergency medical care for which such technician is certified.

(2) If communications fail during an emergency situation, an emergency medical technician-D, emergency medical technician-intermediate, emergency medical technician-paramedic, ~~trainee~~, or field supervisor may perform any advanced emergency medical care for which such technician is certified and included in written protocols if, in the technician's judgment, the life of the patient is in immediate danger and requires such care for its preservation.

Sec. 25. That section 71-5513, Revised Statutes Supplement, 1989, be amended to read as follows:

71-5513. No act of commission or omission of any emergency medical technician-D, emergency medical technician-intermediate, emergency medical technician-paramedic, trainee, or field supervisor performed with ordinary care, while rendering advanced emergency medical care within the limits of his or her certification or status as a currently enrolled trainee under the responsible supervision and control of an approved licensed physician or approved physician surrogate to a person who is deemed by them to be in immediate danger of serious injury or loss of life, shall impose any liability upon such certified technician, trainee, field supervisor, approved physician surrogate, supervising physician, or hospital or upon the state or any county, city, village, other local governmental units, or political subdivision thereof, or its employees. This section shall not relieve such certified technician, trainee, approved physician surrogate, field supervisor, supervising physician, or hospital or the state, or any county, city, village, other local governmental units, or political subdivision thereof, or its employees, from liability arising out of negligent acts in the



performing or rendering of advanced emergency medical care.

Sec. 26. That section 71-5514, Revised Statutes Supplement, 1989, be amended to read as follows:

71-5514. (1) The Bureau of Examining Boards of the department shall issue a certificate to ~~trainees~~ ~~or~~ graduates of approved training programs who meet the standards developed by the department and approved by the board upon application of a person. Any emergency medical technician-D, emergency medical technician-intermediate, emergency medical technician-paramedic, ~~trainee~~, or field supervisor who is duly certified, as evidenced by possession of a valid certificate, and who renders advanced emergency medical care within the limits of his or her certification shall not be construed to be engaged in the unauthorized practice of medicine.

(2) The Bureau of Examining Boards shall issue a certificate as an advanced emergency medical care ~~trainee~~ to persons making application in such manner and meeting such requirements as shall be developed by the department and approved by the board. ~~Trainee certificates shall be valid only so long as the holder is duly enrolled in an approved training program. No person may begin training in advanced emergency medical care in an approved training program without having been granted a trainee certificate by the department.~~

~~(3)~~ The Bureau of Examining Boards shall issue a certificate as a field supervisor to any person making application, as prescribed by the department, who is:

(a) An emergency medical technician-intermediate holding a current Nebraska certificate as such who meets one of the following requirements:

(i) A minimum of three years of field experience in advanced life support and a minimum of fifteen such runs a year; or

(ii) One year of experience in advanced life support and a minimum of forty-five runs in that year;

(b) An emergency medical technician-paramedic holding a current Nebraska certificate who is certified as an advanced cardiac life-support instructor or provider by a national organization which has procedures for certifying such instructors and who meets one of the following requirements:

(i) A minimum of three years of field experience in advanced life support and a minimum of fifteen such runs a year; or

(ii) One year of experience in advanced life support and a minimum of forty-five runs in that year;

(c) A registered nurse currently licensed in Nebraska who has successfully passed the National Registry Paramedic examination, who is certified as an advanced cardiac life-support instructor or provider by a national organization which has procedures for certifying such instructors, and who has at least one year of experience in critical care or emergency room nursing;

(d) A physician assistant, under the supervision of a physician, who is currently licensed in Nebraska, is certified as an advanced cardiac life-support instructor or provider by a national organization which has procedures for certifying such instructors, and has at least one year of experience in emergency or critical care; or

(e) An approved licensed physician.

Sec. 27. That section 71-5517, Revised Statutes Supplement, 1989, be amended to read as follows:

71-5517. (1) An application for a certificate or the certificate of any emergency medical technician-D, emergency medical technician-intermediate, emergency medical technician-paramedic, ~~trainee~~, field supervisor, or approved training or service program or an application for or any other certification issued by the department or the board under the Emergency Medical Technician-Paramedic Act may be denied, refused renewal, suspended, or revoked by the Director of Health when the director finds that such person or entity has:

(a) Acted negligently in performing the authorized services;

(b) Failed to follow the directions of his or her supervising physician;

(c) Rendered treatment not authorized under such act;

(d) Violated any of the provisions of such act or any of the rules and regulations adopted and promulgated thereunder; or

(e) Committed any of the acts or offenses set forth in sections 71-147 to 71-148. Disciplinary actions and proceedings shall be carried out as specified in sections 71-147 to 71-161.19.

(2) Any applicant or certificate holder may request a hearing before the department on the issue of such denial, refusal of renewal, suspension, or revocation of the certificate. Procedures for notice and opportunity for a hearing before the department

shall be pursuant to the Administrative Procedure Act. The denial, refusal of renewal, suspension, or revocation by the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 28. That section 71-5520, Revised Statutes Supplement, 1989, be amended to read as follows:

71-5520. (1) Notwithstanding any other law to the contrary, an emergency medical technician-D or trainee may, when in direct communication with or under the supervision of an approved licensed physician or approved physician surrogate, do any of the following:

(a) Render emergency care, rescue, and resuscitation services; and

(b) Perform cardiac electrical countershock in the event of asystole, ventricular fibrillation, or ventricular tachycardia with collapse.

These services may be rendered at the sites and under the circumstances described in subsection (4) of section 71-5508.

(2) Notwithstanding any other law to the contrary, an emergency medical technician-intermediate or trainee may, when in direct communication with or under the supervision of an approved licensed physician or approved physician surrogate, do any of the following:

(a) Render emergency care, rescue, and resuscitation services;

(b) Administer intravenous solutions;

(c) Perform gastric or tracheal suction or intubation;

(d) Administer airway intubation by endotracheal tube and, if such technician or trainee is additionally trained in the use of the esophageal tube, administer airway intubation by use of esophageal tube; and

(e) Perform pulmonary ventilation by use of esophageal airway and by use of the endotracheal tube if such method has been additionally taught.

These services may be rendered at the sites and under the circumstances described in subsection (4) of section 71-5508.

(3) Notwithstanding any other law to the contrary, an emergency medical technician-paramedic or trainee may, when in direct communication with or under the supervision of an approved licensed physician or approved physician surrogate, do any of the following:

(a) Render emergency care, rescue, and

resuscitation services;

(b) Administer intravenous solutions;

(c) Perform gastric or tracheal suction or intubation;

(d) Administer airway intubation by endotracheal tube and, if such technician or trainee is additionally trained in the use of the esophageal tube, administer airway intubation by use of esophageal tube;

(e) Perform pulmonary ventilation by use of endotracheal tube or other authorized aids to ventilation, including the use of esophageal airway methods if such technician or trainee is additionally trained in such use;

(f) Perform aspiration of the chest;

(g) Perform venipuncture to draw blood specimens for analysis;

(h) Apply rotating tourniquets;

(i) Administer any of the following classes of drugs or solutions:

(i) Antiarrhythmic agents;

(ii) Vagolytic agents;

(iii) Chronotropic agents;

(iv) Analgesic agents;

(v) Alkalinizing agents;

(vi) Vasopressor agents;

(vii) Anticonvulsive agents;

(viii) Inotropic agents;

(ix) Narcotic antagonists;

(x) Diuretics;

(xi) Ophthalmic agents;

(xii) Oxytocic agents;

(xiii) Antihistaminics;

(xiv) Bronchodilators;

(xv) Emetics;

(xvi) Narcotics; or

(xvii) Other drugs or solutions which may be deemed necessary and ordered by an approved licensed physician;

(j) Perform cardiac electrical countershock in the event of asystole, ventricular fibrillation, or ventricular tachycardia with collapse; and

(k) Perform other emergency procedures deemed necessary and ordered by an approved licensed physician.

These services may be rendered at the sites and under the circumstances described in subsection (4) of section 71-5508.

(4) Pursuant to the provisions of this section relating to the use of the endotracheal tube and the esophageal tube, an advanced emergency medical

technician training program ~~may~~ shall include training in the use of both the endotracheal tube and the esophageal tube and shall always be given at the emergency medical technician-intermediate level of training. Training in the use of the endotracheal tube shall always be given at the emergency medical technician-paramedic level of training.

Sec. 29. That section 71-5521, Revised Statutes Supplement, 1989, be amended to read as follows:

71-5521. (1) The department, with the approval of the board, may adopt and promulgate rules and regulations governing:

(a) Minimum standards and performance requirements for the certification and renewal of certification of emergency medical technicians-D, emergency medical technicians-intermediate, emergency medical technician-paramedics, and field supervisors, ~~and trainees~~ and ~~trainees~~. Certification and renewal requirements may include successful completion of a written and practical performance examination or either a written or practical performance examination approved by the board and the department and administered by the latter; and

(b) Procedures for certification of and renewal and revocation of certification of emergency medical technicians-D, emergency medical technicians-intermediate, emergency medical technician-paramedics, and field supervisors, ~~and trainees~~ and ~~trainees~~.

(2) The department, with the approval of the board, shall adopt and promulgate by rules and regulations minimum standards governing the certification of, renewal and revocation of certification of, and operation of approved training programs for the education and training of emergency medical technicians-D, emergency medical technicians-intermediate, and emergency medical technician-paramedics and governing the trainees in such approved training programs. Such minimum standards shall include standards and requirements governing: Application procedures; organization and administration; curriculum; faculty and staff; instruction; facilities; equipment, apparatus, and supplies; physician supervision; reporting requirements; suspension or revocation of approval; transfer or closing of a program; trainee qualifications and admission; scheduling of courses; records; class size; clinical experience requirements and locations; field experience requirements; inspection; renewal procedures; and

security requirements.

(3) The department, with the approval of the board, shall adopt and promulgate by rules and regulations minimum standards governing the certification of, renewal and revocation of certification of, and operation of approved service programs utilizing the services of emergency medical technicians-D, emergency medical technicians-intermediate, and emergency medical technician-paramedics. Such minimum standards shall include standards and requirements governing: Application procedures; organization and administration; staffing; equipment, apparatus, and supplies; security procedures and requirements; physician supervision; reporting requirements; suspension or revocation of approval; transfer or closing of a program; records; field experience requirements; inspection; and renewal procedures. The department, with the approval of the board, shall issue certificates of approval for service programs, as provided in section 71-5508, utilizing emergency medical technicians-D, emergency medical technicians-intermediate, and emergency medical technician-paramedics meeting such standards.

(4) The department, with the approval of the board, shall adopt and promulgate by rules and regulations minimum standards governing the approval of ongoing educational programs and the administration of the ongoing education requirements as outlined in section 71-5515. Such minimum standards shall include criteria for approval of proposed ongoing educational programs, evaluation of clinical experience, exemptions from the requirements, and methods of reporting and recording ongoing education hours.

Sec. 30. That section 71-6023.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6023.01. A nursing home seeking or renewing a license shall be required to retain a resident whose economic status changes so that such resident receives medicaid or becomes eligible for medicaid if such resident has resided in the nursing home for a period of at least one year after July 17, 1986, unless ten percent of such nursing home's residents are receiving medicaid or are eligible for medicaid. Such requirement shall constitute a condition of licensure. The department shall notify the nursing home of such requirement ninety days prior to the renewal of a license or upon application for a license. For purposes of this section, nursing homes shall

include long-term care hospitals, including long-term care units of a hospital. This section shall not apply to the Nebraska veterans' homes established pursuant to Chapter 80, article 3.

Sec. 31. (1) Until July 1, 1991, a special care provider may perform routine health care maintenance procedures for individuals with developmental disabilities when such procedures are performed in an early childhood program, a center for the developmentally disabled, a special education setting, a medicaid waiver facility, or a foster care setting under the supervision of the attending physician without being in violation of the scope of practice of nursing as provided in section 71-1,132.05. The special care provider shall receive training by the attending physician or a registered nurse of at least two hours per procedure and shall demonstrate to the attending physician or a registered nurse the necessary competency to perform the routine health care maintenance procedures required to meet the special care needs of each individual served. Such procedures shall be performed under the direction of a registered nurse in centers for the developmentally disabled and in special education settings.

(2) For purposes of this section:

(a) Center for the developmentally disabled shall have the meaning provided in section 71-2017.01;

(b) Developmental disability shall have the meaning provided in section 71-2017.01;

(c) Early childhood program shall mean a program licensed under section 71-1911 or approved by the Department of Social Services as an early childhood program;

(d) Foster care setting shall mean a facility licensed under section 71-1902 or approved by the department to provide foster care;

(e) Medicaid waiver facility shall mean a person or facility certified by the Department of Health or the Department of Social Services to provide home and community-based services furnished under home and community-based waivers as defined in Title XIX of the Social Security Act, as amended, 42 U.S.C. 1396;

(f) Routine health care maintenance procedures shall include intermittent catheterization, catheter irrigation, colostomy care, ileostomy care, blood glucose monitoring, gastrostomy tube feeding, or any other procedure that is routinely provided which could have been performed by the individual but for his or her disability;

(g) Special care provider shall mean an individual who performs a routine health care maintenance procedure for an individual who but for a developmental disability would perform such procedure for himself or herself; and

(h) Special education shall have the meaning provided in section 79-3314.

Sec. 32. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 33. That original sections 71-128, 71-129, 71-161.06, and 71-6023.01, Reissue Revised Statutes of Nebraska, 1943, sections 71-125, 71-138, 71-175, 71-1,104, 71-1,278, 71-2803, 71-3507, 71-3508.03, and 71-3515.02, Revised Statutes Supplement, 1988, and sections 71-110, 71-131, 71-133, 71-162, 71-174, 71-178, 71-1,279, 71-3503, 71-3505, 71-5502, 71-5509, 71-5510, 71-5513, 71-5514, 71-5517, 71-5520, and 71-5521, Revised Statutes Supplement, 1989, and also sections 71-130 and 71-135 to 71-137, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 34. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.