

LEGISLATIVE BILL 1223

Approved by the Governor April 15, 1994

Introduced by Wesely, 26; Beutler, 28; Bohlke, 33; Byars, 30; Day, 19; Dierks, 40; Landis, 46; Matzke, 47; McKenzie, 34; Rasmussen, 20; Schellpeper, 18; Vrtiska, 1, at the request of the Governor

AN ACT relating to public health and welfare; to amend sections 44-2835, 71-1,132.08, 71-1,132.20, 71-1,132.49, 71-1,198, 71-1,199, 71-374, 71-375, 71-397, 71-1626 to 71-1629, 71-1629.02, 71-1630, 71-4711, 71-5504, 71-5829, 71-6065, 71-6113, and 79-444.03, Reissue Revised Statutes of Nebraska, 1943, sections 71-155, 71-161.03, 71-168, 71-172.01, 71-1,104, 71-1,200, 71-1,202, 71-382, 71-3,171, 71-527 to 71-529, 71-1629.01, 71-3401, 71-3402, 71-3708, 71-3710, 71-4712, 71-5505, 71-5652, 71-5653, 71-5659, 71-5661 to 71-5666, 71-5669, 71-6061, 71-6114, 71-7423, 71-7501, 71-7502, 71-7503, 71-7514, 71-7516, 71-7517, and 71-7521, Revised Statutes Supplement, 1992, and sections 71-101, 71-110, 71-113, 71-116, 71-147, 71-162, 71-168.01, 71-1,132.07, 71-1,204, 71-1331, 71-1757, 71-2023, 71-3706, 71-3707, 71-4715, 71-5668, 71-5674, 71-5676, 71-5677, 71-6054, 79-444.01, and 79-444.07, Revised Statutes Supplement, 1993; to change procedures relating to malpractice settlements and judgments; to provide additional members for certain boards; to provide additional grounds for discipline and reporting requirements related to health professionals; to change procedures for disciplinary proceedings; to provide for cease and desist orders; to provide and change fees; to provide immunity from liability; to change provisions relating to confidentiality and disclosure of information; to require court clerks to provide reports; to change procedures for certain actions and proceedings; to provide for a statewide immunization program for certain children; to provide for contracts for vaccine; to change provisions relating to local health departments, boards, and taxes; to eliminate provisions relating to establishment, referendum, and termination elections for local health departments; to change provisions of the Rural Health Systems and Professional Incentive Act and the Rural Health Opportunities Loan Act; to create a fund; to adopt the Primary Care Provider Act and the Nebraska Trauma Systems Development Act; to change a licensing provision; to rename and change provisions of the Community Public Health Services Act; to state intent; to provide a termination date; to adopt the Health Care Facility-Provider Cooperation Act; to provide for health care data analysis; to require a report; to change and eliminate provisions relating to immunization requirements for school enrollment; to provide immunity for health care payors relating to certain discussions and inquiries; to eliminate the Commission on Medical Qualifications; to harmonize provisions; to provide operative dates; to repeal the original sections, and also sections 44-2848 to 44-2850, 44-2852, and 44-2853, Reissue Revised Statutes of Nebraska, 1943, sections 44-2851, 71-7518, and 71-7519, Revised Statutes Supplement, 1992, and section 79-444.08, Revised Statutes Supplement, 1993; and to declare an emergency.

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

Section 1. That section 44-2835, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2835. (1) Each malpractice claim settled or adjudicated to final judgment against a health care provider under ~~sections 44-2801 to 44-2855~~ the Nebraska Hospital-Medical Liability Act shall be reported to the director by the plaintiff's attorney and by the health care provider or his or her insurer or risk manager within sixty days following final disposition of the claim. Such report to the director shall state the following:

- (a) The nature of the claim;
 - (b) The alleged injury and the damages asserted;
 - (c) Attorney's fees and expenses incurred in connection with the claim or defense; and
 - (d) The amount of any settlement or judgment.
- (2) The director shall forward the name of every health care provider, except a hospital, against whom a settlement has been made or judgment has been rendered under ~~sections 44-2801 to 44-2855~~ the act to the

Commission on Medical Qualifications Department of Health for such action, if any, as it deems to be appropriate under the circumstances.

Sec. 2. That section 71-101, Revised Statutes Supplement, 1993, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1301 to 71-1306, 71-1326 to 71-1354, and 71-2801 to 71-2822 and section 12 of this act shall be known and may be cited as the Uniform Licensing Law.

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

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

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

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

(4) Department shall mean the Department of Health;

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

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

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

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

Sec. 3. That section 71-110, Revised Statutes Supplement, 1993, 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 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:

- (a) January, pharmacy and psychology;
- (b) February, funeral directing and embalming;
- (c) March, dentistry and dental hygiene;
- (d) April, podiatry and veterinary medicine and surgery;
- (e) May, athletic training;
- (f) June, respiratory care;
- (g) August, chiropractic and optometry;
- (h) September, dietetics and nutrition, mental health practice including any associated certification, and osteopathic medicine;
- (i) October, medicine and surgery;
- (j) November, massage therapy and physical therapy; and
- (k) December, audiology and speech-language pathology.

The request for renewal need not be in any particular form and shall be accompanied by the legal fee. Such fee shall be paid not later than the date of the expiration of such license 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 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 fee and an additional fee of fifty dollars if an application for reinstatement is made more than thirty days after expiration and not more than within one year from the date 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 an additional fee of seventy-five dollars and petition the board of examiners to recommend reinstatement as prescribed in section 71-161.05.

Sec. 4. That section 71-113, Revised Statutes Supplement, 1993, be amended to read as follows:

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

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

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

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

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

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

under the Uniform Licensing Law.

(7) Membership on the Board of Examiners in Dietetics and Nutrition shall consist of three certified nutritionists and one layperson.

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

Sec. 5. That section 71-116, Revised Statutes Supplement, 1993, be amended to read as follows:

71-116. (1) The members of each board of examiners shall be residents of the State of Nebraska and shall be appointed for terms of five years. No member shall be appointed for or serve for more than two consecutive full five-year terms.

(2) The members of the Board of Examiners in Dentistry shall be appointed as follows: As of December 1, 1971, one member shall be appointed for a term of five years and one member shall be appointed for a term of three years; as of December 1, 1972, one member shall be appointed for a term of three years; as of December 1, 1973, one member shall be appointed for a term of three years; as of December 1 of each year thereafter, two members shall be appointed for terms of five years; as of December 1, 1979, one member who is a duly licensed dental hygienist and licensed under the Uniform Licensing Law and who complies with section 71-114 shall be appointed for a term of five years; and as of December 1, 1984, one layperson member shall be appointed for a term of five years; and as of December 1, 1994, a second member who is a dental hygienist licensed under the Uniform Licensing Law and who complies with section 71-114 and a second layperson shall be appointed for terms of five years. Thereafter successors with like qualifications shall be appointed for five-year terms.

(3) The members of the Board of Examiners in Medicine and Surgery shall be appointed as follows: Within thirty days after May 25, 1943, five members shall be appointed, one of whom shall hold office until December 1, 1944, one until December 1, 1945, one until December 1, 1946, one until December 1, 1947, and one until December 1, 1948; upon the expiration of such terms, successors shall be appointed for terms of five years each. Within thirty days after October 19, 1963, a sixth member, who shall be a person eligible for appointment to the Board of Examiners in Osteopathy who also has a license to practice medicine and surgery in the State of Nebraska, shall be appointed for a term expiring on December 1, 1968. As of December 1, 1984, one layperson member shall be appointed for a term of five years, and as of December 1, 1994, a second layperson shall be appointed for a term of five years. Thereafter successors with like qualifications shall be appointed for five-year terms. Upon the expiration of the five-year term of such sixth member of the board after April 19, 1986, his or her eligible successor shall be a person who has a license to practice osteopathic medicine or osteopathic medicine and surgery in the State of Nebraska.

(4) The members of the Board of Examiners in Audiology and Speech-Language Pathology shall be appointed as follows: Within sixty days after July 22, 1978, four members shall be appointed, two of whom shall hold office until December 1, 1979, and two until December 1, 1980. As of December 1, 1984, one layperson member shall be appointed for a term of five years. Upon the expiration of such terms the successors shall be appointed for terms of five years each.

(5) The Board of Examiners in Pharmacy shall be composed of five members, including four actively practicing pharmacists, one of whom practices within the confines of a hospital, and a layperson member who is interested in the health of the people of Nebraska. The members of the Board of Examiners in Pharmacy shall be appointed as follows: As of December 1, 1983, the hospital pharmacist member shall be appointed for a term of five years and the layperson member shall be appointed for a term of three years. Upon the expiration of such terms and the terms of existing members, the successors shall be appointed for terms of five years each.

(6) The members of the Board of Examiners of Psychologists appointed as successors to the members serving on February 25, 1984, shall be appointed for terms of five years. The terms of members serving on February 25, 1984, are hereby extended to December 1 of the year in which they would otherwise expire.

(7) The three members serving on the Board of Examiners in Massage on August 1, 1988, shall be appointed as members of the Board of Examiners in

Massage Therapy. Successors shall be massage therapists and shall be appointed for terms of five years each. One layperson member shall be appointed on December 1, 1988, for a term of five years. Upon the expiration of the layperson member's term, each subsequent layperson member shall be appointed for a five-year term.

(8) The initial members of the Board of Examiners in Mental Health Practice appointed from the Board of Examiners in Social Work and the Board of Examiners in Professional Counseling, as such boards existed immediately prior to September 1, 1994, shall serve until the expiration of the terms they would have served on their respective boards. One initial layperson member and one initial marriage and family therapist shall hold office until December 1 of the fourth year following September 1, 1994, and one initial layperson member and one initial marriage and family therapist shall hold office until December 1 of the fifth year following September 1, 1994.

(9) The term of each member provided for in this section shall commence on the first day of December following the expiration of the term of the member whom such person succeeds and shall be rotated in such a manner that no more than one examiner shall retire during any year in which a term expires unless the number of members on a board makes it impractical to do so.

(10) Except as otherwise specifically provided, the members of boards for professions coming under the scope of the Uniform Licensing Law for the first time shall be appointed within thirty days after the effective or operative date, whichever is later, of the act providing for licensing or certification of the profession, the terms of the initial board members to be as follows: One member shall hold office until December 1 of the third year, one until December 1 of the fourth year, and two, including the layperson member, until December 1 of the fifth year following the year in which the act providing for licensing or certification of the profession became effective.

Sec. 6. That section 71-147, Revised Statutes Supplement, 1993, be amended to read as follows:

71-147. A license, certificate, or registration to practice a profession may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant, licensee, certificate holder, or registrant is guilty of any of the following acts or offenses:

(1) Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license, certificate, or registration;

(2) Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;

(3) Habitual intoxication or active dependency on or addiction to the use of alcohol or habituation or active dependency on or addiction to the use of any kind of controlled substance or narcotic drug or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to section 71-172.01;

(4) Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, certificate holder's, or registrant's fitness or capacity to practice the profession;

(5) Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, or (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct shall mean a continued course of negligent conduct in performing the duties of the profession:

(6) Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;

(7) Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;

(8) Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so;

(9) Having had his or her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked or having had such license, certificate, or registration disciplined in any other manner in accordance with section 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, certificate holder, or registrant similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or

registration or the taking of other disciplinary measures against it by another state or jurisdiction shall be conclusive evidence;

(10) Unprofessional conduct;

(11) Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims, concerning such licensee's, certificate holder's, or registrant's professional excellence or abilities, in advertisements;

(12) Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

(13) Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;

(14) Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the department relating to the licensee's, certificate holder's, or registrant's profession, sanitation, quarantine, or school inspection;

(15) Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee, certificate holder, or registrant is not licensed, certified, or registered to practice;

(16) Failure to comply with sections 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates;

(17) Violation of the Uniform Controlled Substances Act; or

(18) Purchasing or receiving any prescription drug from any source in violation of the Wholesale Drug Distributor Licensing Act; or

~~(19) Failure to file a report required by section 71-168.~~

A license, certificate, or registration to practice a profession may also be refused renewal or revoked when the licensee, certificate holder, or registrant is guilty of practicing such profession while his or her license, certificate, or registration to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his or her license, certificate, or registration.

This section shall not apply to revocation for nonpayment of renewal fees as set out in section 71-110.

Sec. 7. That section 71-155, Revised Statutes Supplement, 1992, be amended to read as follows:

71-155. The proceeding shall be summary in its nature and triable as an equity action and shall be heard by the Director of Health or by a hearing officer designated by the director under rules and regulations of the department. Affidavits may be received in evidence in the discretion of the director or hearing officer. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party.

Upon the completion of any hearing held under this section, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers, irrespective of the petition:

(1) Issue a censure or reprimand against the licensee or certificate holder;

(2) Suspend judgment;

(3) Place the licensee or certificate holder on probation;

(4) Place a limitation or limitations on the license or certificate and upon the right of the licensee or certificate holder to practice the profession to such extent, scope, or type of practice, for such time, and under such conditions as are found necessary and proper;

(5) Impose a civil penalty not to exceed ten thousand dollars. The amount of the penalty shall be based on the severity of the violation;

(6) Enter an order of suspension of the license or certificate;

(7) Enter an order of revocation of the license or certificate; and

(8) Dismiss the action.

If the director determines that guilt has been established, the director may, at his or her discretion, consult with the board of examiners for the profession involved concerning sanctions to be imposed or terms and conditions of the sanctions. When the director consults with a board of examiners, the licensee or certificate holder shall be provided with a copy of the director's request, the recommendation of the board of examiners, and an opportunity to respond in such manner as the director determines.

The licensee or certificate holder shall not engage in the practice of a profession after a license or certificate to practice such profession is revoked or during the time for which it is suspended. If a license or certificate is suspended, the suspension shall be for a definite period of time to be set by the director. The director may provide that the license or

certificate shall be automatically reinstated upon expiration of such period, reinstated if the terms and conditions as set by the director are satisfied, or reinstated subject to probation or limitations or conditions upon the practice of the licensee or certificate holder. If such license or certificate is revoked, such revocation shall be for all times, except that at any time after the expiration of two years, application may be made for reinstatement pursuant to section 71-161.04.

Sec. 8. That section 71-161.03, Revised Statutes Supplement, 1992, be amended to read as follows:

71-161.03. (1) Any petition filed with the Director of Health pursuant to section 71-150 may, at any time prior to the entry of any order by the director, be disposed of by stipulation, agreed settlement, consent order, or similar method as agreed to between the parties. A proposed settlement shall be submitted and considered in camera and shall not be a public record unless accepted by the director. The director may review the input provided to the Attorney General by the board pursuant to subsection (2) of this section. If the settlement is acceptable to the director, he or she shall make it the sole basis of any order he or she enters in the matter, and it may be modified or added to by the director only upon the mutual consent of both of the parties thereto. If the settlement is not acceptable to the director, it shall not be admissible in any subsequent hearing and it shall not be considered in any manner as an admission.

(2) The Attorney General shall not enter into any agreed settlement or dismiss any petition without first having given notice of the proposed action and an opportunity to the appropriate board of examiners to provide input into the terms of the settlement or on dismissal. The board shall have fifteen days from the date of the Attorney General's request to respond, but the recommendation of the board, if any, shall not be binding on the Attorney General. Meetings of the board for such purpose shall be in closed session, and any recommendation by the board to the Attorney General shall not be a public record until the pending action is complete, except that if the director reviews the input provided to the Attorney General by the board of examiners as provided in subsection (1) of this section, the licensee or certificate holder shall also be provided a copy of the input and opportunity to respond in such manner as the director determines.

Sec. 9. That section 71-162, Revised Statutes Supplement, 1993, be amended to read as follows:

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

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

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

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

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

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

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

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

hundred dollars, and for renewal of a license, not less than one hundred dollars and not more than four hundred dollars;

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

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

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

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

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

Sec. 10. That section 71-168, Revised Statutes Supplement, 1992, be amended to read as follows:

71-168. (1) The department shall enforce the Uniform Licensing Law and for that purpose shall make necessary investigations. Every licensee, ~~or~~ certificate holder, ~~or~~ registrant listed under subsection (4) of this section and every member of a board of examiners shall furnish the department such evidence as he or she may have relative to any alleged violation which is being investigated. ~~He or she shall also~~

(2) ~~Every licensee, certificate holder, or registrant listed under subsection (4) of this section shall report to the department the name of every person without a license, or certificate, or registration that he or she has reason to believe is engaged in practicing any profession for which a license, or certificate, or registration is required by the Uniform Licensing Law. The department may, along with the Attorney General and other law enforcement agencies, investigate such reports or other complaints of unauthorized practice. The board of examiners for the profession may issue an order to cease and desist the unauthorized practice of that profession as a measure to obtain licensure, certification, or registration of the person prior to referral of the matter to the Attorney General for action.~~

~~(3) Any licensee, certificate holder, or registrant listed under subsection (4) of this section who is required to file a report of loss or theft of a controlled substance to the federal Drug Enforcement Administration shall provide a copy of such report to the department.~~

~~(4) Every licensee, certificate holder, or registrant regulated under the Emergency Medical Technician-Paramedic Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-1,132.04 to 71-1,132.53, 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068 shall, within thirty days of an occurrence described in this subsection, report to the department in such manner and form as the department may require by rule and regulation whenever he or she:~~

~~(a) Has first-hand knowledge of facts giving him or her reason to believe that any person in his or her profession has committed acts indicative of gross incompetence, a pattern of negligent conduct as defined in subdivision (5)(e) of section 71-147, or unprofessional conduct, may be practicing while his or her ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical, mental, or emotional disability, or has otherwise violated such regulatory provisions governing the practice of the profession;~~

~~(b) Has first-hand knowledge of facts giving him or her reason to believe that any person in another profession regulated under such regulatory provisions has committed acts indicative of gross incompetence or may be~~

practicing while his or her ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical, mental, or emotional disability. The requirement to file a report under subdivision (a) or (b) of this subsection shall not apply (i) to the spouse of the practitioner, (ii) to a practitioner who is providing treatment to such person in a practitioner-patient relationship concerning information obtained or discovered in the course of treatment unless the treating practitioner determines that the condition of the person may be of a nature which constitutes a danger to the public health and safety by the person's continued practice, or (iii) when a chemically impaired professional enters the licensee Assistance Program authorized by section 71-172.01 except as provided in such section; or

(c) Has been the subject of any of the following actions:

(i) Loss of privileges in a hospital or other health care facility due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment or the voluntary limitation of privileges or resignation from staff of any health care facility when that occurred while under formal or informal investigation or evaluation by the facility or a committee of the facility for issues of clinical competence, unprofessional conduct, or physical, mental, or chemical impairment;

(ii) Loss of employment due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;

(iii) Adverse judgments, settlements, or awards arising out of professional liability claims, including settlements made prior to suit, or adverse action by an insurance company affecting professional liability coverage. The department may define by rule and regulation what constitutes a settlement that would be reportable when a practitioner refunds or reduces a fee or makes no charge for reasons related to a patient or client complaint other than costs;

(iv) Denial of licensure, certification, registration, or other form of authorization to practice by any state, territory, or jurisdiction, including any military or federal jurisdiction, due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment;

(v) Disciplinary action against any license, certificate, registration, or other form of permit he or she holds taken by another state, territory, or jurisdiction, including any federal or military jurisdiction, the settlement of such action, or any voluntary surrender of or limitation on any such license, certificate, registration, or other form of permit;

(vi) Loss of membership in a professional organization due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment; or

(vii) Conviction of any misdemeanor or felony in this or any other state, territory, or jurisdiction, including any federal or military jurisdiction.

(5) A report made to the department under this section shall be confidential and treated in the same manner as complaints and investigative files under subsection (7) of section 71-168.01. Any person making a report to the department under this section except those self-reporting shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or other information to the department under this section. Persons who are members of committees established under sections 25-12, 123 and 71-2046 to 71-2048 or witnesses before such committees shall not be required to report such activities. Any person who is a witness before a committee established under such sections shall not be excused from reporting matters of first-hand knowledge that would otherwise be reportable under this section only because he or she attended or testified before such committee. Documents from original sources shall not be construed as immune from discovery or use in actions under subsection (4) of this section.

Sec. 11. That section 71-168.01, Revised Statutes Supplement, 1993, be amended to read as follows:

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

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

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

(c) Whether the complaint is timely or has been delayed too long to justify present evaluation of its merit;

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

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

A complaint submitted to the department shall be confidential, and a person making a complaint shall be immune from criminal or civil liability of any nature, whether direct or derivative, for filing a complaint or for disclosure of documents, records, or other information to the department.

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

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

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

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

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

(b) Matters which the board believes require additional investigation; and

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

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

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

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

Sec. 12. (1) A health care facility licensed under section 71-2017.01 or a peer review organization or professional association of a health care profession regulated under the Emergency Medical Technician-Paramedic Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-1,132.04 to 71-1,132.53, 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068 shall report to the department, on a form and in the manner specified by the department by rule and regulation, any facts known to them, including, but not limited to, the identity of the practitioner and patient, when the facility, organization, or association:

(a) Has made payment due to adverse judgment, settlement, or award of a professional liability claim against it or a licensee, certificate holder, or registrant, including settlements made prior to suit, arising out of the acts or omissions of the licensee, certificate holder, or registrant; or

(b) Takes action adversely affecting the privileges or membership of a licensee, certificate holder, or registrant in such facility, organization, or association due to alleged incompetence, professional negligence, unprofessional conduct, or physical, mental, or chemical impairment.

The report shall be made within thirty days after the date of the action or event.

(2) A report made to the department under this section shall be confidential and treated in the same manner as complaints and investigative files under subsection (7) of section 71-168.01. The facility, organization, association, or person making such report shall be completely immune from criminal or civil liability of any nature, whether direct or derivative, for filing a report or for disclosure of documents, records, or other information to the department under this section. The reports and information shall be subject to the investigatory and enforcement provisions of the regulatory provisions listed in subsection (1) of this section. Nothing in this subsection shall be construed to require production of records protected by section 25-12,123 or 71-2048 except as otherwise provided in either of such sections.

(3) For purposes of this section, the department shall accept reports made to it under the Nebraska Hospital-Medical Liability Act or in accordance with national practitioner data bank requirements of the Health Care Quality Improvement Act of 1986, as amended, and may require a supplemental report to the extent such reports do not contain the information required by rules and regulations of the department.

Sec. 13. That section 71-172.01, Revised Statutes Supplement, 1992, be amended to read as follows:

71-172.01. (1) The Department of Health may contract with the Department of Public Institutions to provide a Licensee Assistance Program to licensees, certificate holders, and registrants regulated by the Bureau of Examining Boards. The program shall be limited to providing education, referral assistance, and monitoring of compliance with treatment of habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug and shall be limited to voluntary participation by licensees, certificate holders, and registrants.

(2)(a) Participation in the program shall be confidential, except that if any evaluation by the program determines that the intoxication, dependence, or active addiction may be of a nature which constitutes a danger to the public health and safety by the person's continued practice or if the person fails to comply with any term or condition of a treatment plan, the program shall report the same to the Director of Health.

(b) Participation in the program shall not preclude the investigation of alleged statutory violations which could result in disciplinary action against the person's license, certificate, or registration or criminal action against the person. Any report from any person or from the program to the department indicating that a licensee, certificate holder, or registrant is habitually intoxicated or is dependent on or actively addicted to alcohol or any controlled substance or narcotic drug shall be treated as a complaint against such license, certificate, or registration and shall subject such licensee, certificate holder, or registrant to discipline under sections 71-150 to 71-155.

(3) No person who makes a report of intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug to the program or from the program to the department shall be liable in damages to any person for slander, libel, defamation of character, breach of any

privileged communication, or otherwise if the person reporting acts without malice and in the reasonable belief that such report is warranted by the facts known to him or her other criminal or civil action of any nature, whether direct or derivative, for making such report or providing information to the program or department in accordance with this section.

(4) Any person who contacts the department for information on or assistance in obtaining referral or treatment of himself or herself or any other person licensed, certified, or registered by the department for habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug shall be referred to the program. Such inquiries shall not be used by the department as the basis for investigation for disciplinary action, except that such limitation shall not apply to complaints or any other reports or inquiries made to the department concerning persons who may be suffering from habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug or when a complaint has been filed or an investigation or disciplinary or other administrative proceeding is in process.

Sec. 14. That section 71-1,104, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1,104. (1) Each applicant for a license to practice medicine and surgery shall (a)(i) present proof that he or she is a graduate of an accredited school or college of medicine, (ii) 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 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, (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, and (c) pass an examination prescribed and conducted by the board and approved by the department covering appropriate medical subjects.

(2) The department, upon the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (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 health profession shortage area designated as such by the Nebraska Rural Health Advisory Commission 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 health profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the Director of Health, upon recommendation of the 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 for removal of the limitations. The director, upon the recommendation of the 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 section 71-162.

(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the 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, upon the recommendation of the board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.

Sec. 15. That section 71-1,132.07, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,132.07. (1) There is hereby established the Board of Nursing which shall consist of seven registered nurse members, two practical nurse members, and ~~one~~ two consumer member members, all of whom shall be appointed by the State Board of Health. The registered nurses on the Board of Nursing shall be from the following areas: (a) One practical nurse educator; (b) one associate degree nurse educator; (c) one diploma nurse educator; (d) one baccalaureate nurse educator; (e) two nursing service administrators; and (f) one staff nurse. All congressional districts shall be equally represented by the voting members on the board, and each member shall have been a bona fide resident of the congressional district from which he or she is appointed for a period of at least one year prior to the time of the appointment of such member.

(2) The initial terms of office for members of the board shall be as follows: (a) One registered nurse shall be appointed for one year; (b) one registered nurse shall be appointed for two years; (c) two registered nurses shall be appointed for four years; (d) one licensed practical nurse shall be appointed for two years; and (e) one licensed practical nurse shall be appointed for four years. As of December 1, 1994, a second consumer member shall be appointed for a four-year term. On expiration of the terms of the initial board members, the term of all board members shall be four years.

(3) At the expiration of the term of any member, the State Board of Health may consult with appropriate professional nursing organizations regarding candidates for appointment. Appointments shall be made on or before December 1 of each year. Vacancies occurring on the Board of Nursing shall be filled for the unexpired terms by appointments made by the State Board of Health. No individual shall serve more than two consecutive terms on the Board of Nursing.

(4) The State Board of Health shall have power to remove from office at any time any member of the Board of Nursing, after a public hearing pursuant to the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a license or certificate in the member's profession involved may be suspended or revoked, for a lack of licensure or certification in the member's profession, or for other sufficient cause.

(5) The department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 16. That section 71-1,132.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.08. (1) Each licensed practical nurse educator shall (a) be a registered nurse currently licensed in the state, (b) have graduated with a baccalaureate degree in nursing or a related field of study, (c) have had a minimum of three years' experience in administration, teaching, or consultation in practical nurse education, and (d) be currently employed as a practical nurse educator.

(2) Each associate degree nurse educator, diploma nurse educator, and baccalaureate nurse educator shall (a) be a registered nurse currently licensed in the state, (b) have graduated with a master's degree in nursing or a related field of study, (c) have had a minimum of five years' experience in administration, teaching, or consultation in nursing education, and (d) be currently employed in the field being represented.

(3) Each staff nurse shall (a) be a registered nurse currently licensed in the state, (b) have had a minimum of five years' experience in nursing, and (c) be currently employed as a staff nurse.

(4) Each nursing service administrator shall (a) be a registered nurse currently licensed in the state, (b) have had a minimum of five years' experience in nursing service administration, and (c) be currently employed in such field.

(5) Each licensed practical nurse member shall (a) have completed at least four years of high school study, (b) be licensed as a licensed practical nurse in this state, (c) have obtained a certificate from a state-approved practical nursing program, (d) have been actively engaged in practical nursing for at least five years, and (e) be currently employed as a licensed practical

nurse in the state.

(6) The Each consumer ~~advisor member~~ shall (a) not have been involved in providing health care services in this state for at least three years prior to his or her appointment, (b) be of voting age, and (c) be a resident of the state.

Sec. 17. That section 71-1,132.20, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.20. (1) The license of every registered nurse or licensed practical nurse shall be renewed biennially. The biennial expiration date shall be as follows: (a) December 31 of every odd-numbered year, licensed practical nurses; and (b) December 31 of every even-numbered year, registered nurses. The biennial license 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.

(2) On or before October 1 of each renewal year, the department shall mail an application for renewal of license to every person to whom such license was issued or renewed during the current renewal period. The applicant shall fill in the application blank and return it to the department with a renewal fee established by the department pursuant to section 71-1,132.49 on or before December 1 following the mailing of such notice. Upon receipt of the application and fee, the department shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the renewal period beginning January 1 following the mailing of such notice. Such certificate of renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the certificate of renewal.

(3) A licensed practical nurse or registered nurse who wishes to have his or her license lapse upon expiration shall give the department written notice to that effect. The department shall notify the licensee in writing of the acceptance or denial of the request to allow the license to lapse. When the lapsed status becomes effective, the right to practice nursing and to represent himself or herself as a licensed practical nurse or registered nurse shall terminate. To restore the license, the individual shall be required to meet the renewal requirements in effect at the time he or she wishes to restore the license and pay the renewal fee and an additional fee of twenty-five dollars.

(4) A licensed practical nurse or registered nurse who wishes to have his or her license placed on inactive status upon expiration shall give the department written notice to that effect and pay the fee provided in section 71-1,132.49. The department shall notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive status. When the license is placed on inactive status, the licensee shall not engage in the practice of nursing. A license may remain on inactive status for an indefinite period of time. In order to move a license from inactive to active status, an individual shall meet the renewal requirements in effect at the time he or she wishes to regain active status and pay the renewal fee and reinstatement fee due at such time as specified in section 71-1,132.49.

(5) Any licensed practical nurse or registered nurse who fails to (a) notify the department that he or she wishes his or her license to lapse or to be placed on inactive status or (b) pay the renewal fee, on or before the date of expiration of his or her license, shall be given a second notice in the same manner as the first notice advising him or her (i) of the failure to pay, (ii) that the license has expired, (iii) that the department will suspend action for thirty days following the date of expiration, (iv) 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 (v) that upon the failure to receive the amount then due and twenty-five dollars in addition to the regular renewal fee, the license will be revoked in the same manner as provided in section 71-149.

(6) Any licensee who fails to renew his or her license may have such license reinstated upon the recommendation of the board and the payment of the renewal fee and an additional fee of twenty-five fifty dollars if an application for reinstatement is made more than thirty days after expiration and not more than within one year from the date of revocation.

(7) Any licensee who applies for reinstatement after one year of revocation shall pay the renewal fees for the intervening years and an additional fee of seventy-five dollars and petition the board to recommend reinstatement in the same manner as provided in section 71-161.05.

(8) A fee to be determined by the department pursuant to section 71-1,132.49 shall be charged to any licensed nurse for the issuance of a certification of credentials to another state and to any educational

institution or agency located outside of the State of Nebraska.

(9) ~~After January 1, 1983,~~ ~~the~~ The department shall require, in the interest of public health, safety, and welfare of the people of this state, that applicants who have not practiced nursing for a period of five or more years complete a review study of courses to be determined by the board and approved by the department in accordance with section 71-1,132.11 and satisfactorily demonstrate their ability to practice nursing by such means as may be determined by the Board of Nursing and approved by the department. Such means shall be on the basis of uniform criteria and standards established by rules and regulations adopted and promulgated by the Board of Nursing with the approval of the department.

Sec. 18. That section 71-1,132.49, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.49. The department shall set the fees to be paid:

(1) By an applicant for a license to practice as a registered professional nurse, but the fee shall not be in excess of seventy-five dollars;

(2) By an applicant for a license to practice as a practical nurse, but the fee shall not be in excess of sixty dollars;

(3) By an applicant for renewal of a license, but the fee shall not be in excess of one hundred forty dollars;

(4) By an applicant for reinstatement of a license, but the fee shall not be in excess of ten dollars;

(5) For providing identification of inactive status to those individuals requesting such identification, but the fee shall not be in excess of twenty-five dollars; and

(6) For certification to another state or country, but the fee shall not be in excess of twenty-five dollars.

The applicable fee set by the department pursuant to this section shall accompany the application.

Sec. 19. That section 71-1,198, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,198. For the purposes of sections 71-1,198 to 71-1,205, unless the context otherwise requires:

(1) Uniform Licensing Law shall mean sections 71-101 to 71-196;

~~(2) Department shall mean the Department of Health;~~

~~(3) Law enforcement agency shall mean any governmental agency charged by law with carrying out any of the regulatory provisions of the Uniform Licensing Law; or any person authorized by law to make arrests within the State of Nebraska; and~~

(2) ~~(4)~~ Practitioner shall mean any person required to be licensed, certified, or registered under the regulatory provisions of the Uniform Licensing Law, whether or not such person is so licensed, certified, or registered; and

(3) Regulatory provisions shall mean the Emergency Medical Technician-Paramedic Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-1,132.04 to 71-1,132.53, 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068.

Sec. 20. That section 71-1,199, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,199. Any insurer, ~~having knowledge of any violation of any of the regulatory provisions governing the profession of the practitioner being reported of the Uniform Licensing Law shall report the facts of such violation as known to such insurer to the department unless such knowledge is based on confidential medical records protected by the confidentiality provisions of the federal Public Health Services Act, 42 U.S.C. 290ee-3 and 290dd-3, and federal administrative rules and regulations.~~

Sec. 21. That section 71-1,200, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1,200. Any insurer shall report to the department, on a form and in the manner specified by the department by rule and regulation, any facts known to the insurer, including, but not limited to, the identity of the practitioner and patient, when the insurer:

(1) Has reasonable grounds to believe that a practitioner has committed a violation of the regulatory provisions governing the profession of such practitioner;

(2) Has made payment due to an adverse judgment, settlement, or award resulting from a professional liability claim against the insurer, a health care facility as defined in section 71-2017.01, or a practitioner,

including settlements made prior to suit, arising out of the acts or omissions of the practitioner; or

(3) Takes an adverse action affecting the coverage provided by the insurer to a practitioner due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment. For purposes of this section, adverse action shall not include raising a practitioner's rates for professional liability coverage unless it is based upon grounds that would be reportable and no prior report has been made to the department.

The report shall be made within thirty days after the date of the action or event. Nothing in this section or section 71-1,199 shall be construed to require an insurer to report based on information gained due to the filing by a practitioner or on behalf of a practitioner of a claim for payment under his or her health insurance policy, having reasonable grounds to believe that any violation of the Uniform licensing law has occurred shall report the facts of such violation as known to such insurer to the department, and the insurer may, in such report, identify the practitioner and the patient involved.

Sec. 22. That section 71-1,202, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1,202. To the extent that such reports contain or relate to privileged communications between patient and practitioner, such reports shall be treated by the department as privileged communications and shall be considered to be part of the investigational records of the department. Such reports may not be obtained by legal discovery proceedings or otherwise disclosed unless the privilege is waived by the patient involved or the reports are made part of the record in a contested case under section 71-154, in which case such reports shall only be disclosed to the extent they are made a part of such record.

Sec. 23. That section 71-1,204, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1,204. Any insurer or employee of an insurer making a report as required by section 71-1,199 or 71-1,200 shall be immune from criminal penalty of any kind or from civil liability or other penalty for slander, libel, defamation, breach of the privilege between patient and physician or between client and professional counselor, or violation of the laws of the State of Nebraska relating to the business of insurance that may be incurred or imposed on account of or in connection with the making of such report, except that such immunity shall not apply to the making of malicious or knowingly false statements or to the initiating of a report with reckless disregard for the truth of such report.

Sec. 24. Beginning July 1, 1995, the clerk of any county or district court in this state shall report to the Department of Health the conviction of any person licensed, certified, or registered by the department under the Emergency Medical Technician-Paramedic Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-1,132.04 to 71-1,132.53, 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068 of any felony or of any misdemeanor involving the use, sale, distribution, administration, or dispensing of a controlled substance, alcohol or chemical impairment, or substance abuse and shall also report a judgment against any such licensee, certificate holder, or registrant arising out of a claim of professional liability. The Attorney General or city or county prosecutor prosecuting any such criminal action and plaintiff in any such civil action shall provide the court with information concerning the licensure, certification, or registration of the defendant or party. Notice to the department shall be filed within thirty days after the date of conviction or judgment in a manner agreed to by the Director of Health and the State Court Administrator.

Sec. 25. That section 71-374, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-374. (1) Except as provided in subsection (2) of this section, the board shall be composed of ~~seven~~ eight members including two school owners, one licensed instructor, ~~one~~ two laypersons, one cosmetologist who is a salon owner and who is not a school owner, and two cosmetologists who are not school owners. The professional members shall be licensed in Nebraska and maintain such license as well as their establishment licenses in good standing. No school owners, salon owners, or cosmetologists may be affiliated with the same establishment.

(2) All members of the Board of Cosmetologist Examiners serving on

July 17, 1986, shall continue in office for the remainder of their terms as members of the Board of Cosmetology Examiners. Within sixty days after July 17, 1986, the State Board of Health shall appoint one school owner for a five-year term, one school owner for a four-year term, one licensed instructor for a three-year term, and one layperson for a five-year term. The first vacancy occurring among the members serving on July 17, 1986, shall be filled by appointing one cosmetologist who is a salon owner for a four-year term. As of July 17, 1995, the State Board of Health shall appoint a second layperson for a five-year term.

(3) Members of the board shall be appointed by the State Board of Health from among nominees submitted by professional associations and other interested parties. A person may nominate himself or herself.

(4) The State Board of Health may remove a member of the board for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional license in the profession involved may be suspended or revoked under the Nebraska Cosmetology Act, or for a lack of licensure in the profession involved.

(5) Vacancies on the board shall be filled in the same manner as original appointments for the remainder of the unexpired term only.

(6) Members of the board, other than the initial members, shall serve for five-year terms, and no member shall serve for more than two consecutive terms excluding any partial term for which he or she may have been appointed.

Sec. 26. That section 71-375, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-375. (1) Any four five members of the board shall constitute a quorum for routine business. For matters requiring professional judgment of competency or standards of professional conduct a quorum shall consist of any four professional members.

(2) The board shall meet at least twice a year and more often at the call of the chairperson or any four members.

(3) The board shall select officers from among its members including a chairperson, vice-chairperson, and secretary.

(4) Members of the board shall be paid for their expenses as provided in sections 81-1174 to 81-1177 ~~for state employees~~ and shall in addition receive a per diem of fifty dollars.

Sec. 27. That section 71-382, Revised Statutes Supplement, 1992, be amended to read as follows:

71-382. Fees shall be set by the board within the dollar ranges provided in this section.

Fee	Initial	Biennial Renewal	Late Renewal Penalty
Cosmetologist license	20-300	16-400	10-25
Esthetician license	10-300	16-400	10-25
Instructor license	10-300	16-400	10-25
Cosmetologist license	20-300	16-500	25-75
Esthetician license	10-300	16-500	25-75
Instructor license	10-300	16-500	25-75
Guest artist registration	10-300	--	--
Temporary practitioner registration	5-300	--	--
Cosmetician registration	5-300	--	--
Inactive renewal-- cosmetologist	--	16-400	10-25
cosmetologist	--	16-500	25-75
Inactive renewal-- instructor, esthetician	--	16-400	10-25
esthetician	--	16-500	25-75
Cosmetology salon	50-300	20-400	10-35
Skin care salon	40-300	20-400	10-35
Cosmetic establishment	20-300	10-400	5-35
Apprentice training salon	100-300	25-400	10-35
School of cosmetology	1000-3000	200-750	25-250
Satellite classroom	250-750	100-400	25-125
Transfer school location within county	250-500	--	--
Duplicate license or registration	5-20	--	--

Certification of grades or hours to another state	5-20	--	--
Continuing education program fee	10-100	--	--
Repeat inspection	30-300	--	--
Home service permit	10-300	20-400	10-35

Sec. 28. That section 71-397, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-397. (1) Each license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal every two years. All cosmetology and instructor's licenses issued on or before December 31, 1986, shall expire and be subject to renewal on that date and on December 31 of each even-numbered year thereafter. All esthetician's licenses issued on or before September 30, 1988, shall expire and be subject to renewal on that date and on September 30 of each even-numbered year thereafter.

(2) At least thirty days before the expiration of a license, the department shall notify each licensee by a letter addressed to the licensee at the last address contained in the department's records. Any licensee who fails to pay the renewal fee on or before the date of expiration of the license shall be given a second notice in the same manner, advising him or her that:

- (a) The renewal fee has not been received;
- (b) The license has expired;
- (c) The department will suspend action for thirty days following the date of expiration;
- (d) If the renewal fee and the additional late renewal fee of twenty-five dollars are received within such thirty-day period, no order of revocation will be entered;
- (e) If the inactive renewal fee is received within such thirty-day period, the license will be placed on inactive status and no order of revocation will be entered; and
- (f) Upon failure to receive the fee under either subdivision (d) or (e) of this subsection within such thirty-day period, an order of revocation will be entered.

(3) Any licensee who allows his or her license to expire by failure to renew according to this section may petition the department for reinstatement. Reinstatement may be granted upon the recommendation of the board and upon receipt by the department of a complete application for reinstatement accompanied by all regular renewal fees and the late renewal fee. If application for reinstatement is made more than thirty days after expiration and not more than one year from the date of revocation, the late renewal fee shall be fifty dollars. If application for reinstatement is made more than one year after revocation, the late renewal fee shall be seventy-five dollars.

(4) No license may be renewed or reinstated unless the licensee provides evidence of compliance with the continuing education provisions contained in sections 71-3,107 to 71-3,118.

Sec. 29. That section 71-3,171, Revised Statutes Supplement, 1992, be amended to read as follows:

71-3,171. **Bisciplinary** All actions and proceedings shall be carried out as specified in the Uniform Licensing Law, except that in all instances the provisions of the Nebraska Cosmetology Act shall have precedence over the Uniform Licensing Law if there is conflict between them.

Sec. 30. That section 71-527, Revised Statutes Supplement, 1992, be amended to read as follows:

71-527. The Legislature hereby finds and declares that:

(1) Childhood communicable diseases constitute a serious threat to the public health of the people of this state and the prevention of childhood communicable diseases is a goal of the people;

(2) The effectiveness of childhood vaccines in preventing certain communicable diseases and thereby saving lives and preventing debilitating conditions has been well documented. Vaccines are among the most cost-effective components of preventive health care; for every dollar spent on childhood immunization, ten dollars are saved in later medical costs;

(3) Prevention of childhood diseases should include comprehensive, continuous health care, including regular medical examinations, treatment by a practitioner familiar with the child, and age-appropriate administration of immunizations;

(4) The United States Department of Health and Human Services, Public Health Service, has as its Healthy People 2000 objective to have at least ninety percent of all children completely immunized by age two. The United States immunization survey indicates that only seventy-seven percent of

children two years of age had received the basic immunization series. Recent outbreaks of measles among preschoolers who are not immunized also have shown that inadequate immunization levels still occur;

(5) Nebraska has as its Year 2000 objective that seventy-five percent of its counties are covered by public immunization clinics, that ninety percent of its two-year-olds are minimally immunized, and that ninety-eight percent of its school-aged children are immunized;

(6) The Surgeon General's 1990 objective to decrease the incidence of cases of mumps and pertussis to less than one thousand has not been achieved, and the incidence of pertussis increased between 1979 and 1987;

(7) Immunization rates in other developed countries are higher than immunization rates in the United States;

(8) Diphtheria, tetanus, and pertussis immunization rates in European countries average forty-one percent higher than in the United States;

(9) Polio immunization rates are twenty-three percent higher in European countries than in the United States;

(10) Measles immunization rates are twenty-three percent higher in England, Denmark, and Norway than in the United States;

(11) Childhood communicable diseases should be prevented through protection of Nebraska's children by immunization against measles, mumps, rubella, diphtheria, tetanus, pertussis, polio, haemophilus influenzae type B, and such other diseases as may be indicated based on then current medical and scientific knowledge;

(12) The average cost of fully vaccinating a child in the private sector has increased dramatically in the past decade. The full battery of childhood vaccines recommended by the Centers for Disease Control and Prevention in 1982 increased five times in cost between 1982 and 1989. These increases have made it unaffordable for many children to receive their immunizations at their private practitioner's office; and

(13) There is a national effort to continue current immunization programs and to provide additional funds to implement the Healthy People 2000 objective that ninety percent of children are appropriately immunized by two years of age.

Sec. 31. That section 71-528, Revised Statutes Supplement, 1992, be amended to read as follows:

71-528. (1) It is the intent of the Legislature that the citizens of the State of Nebraska benefit by participation in national efforts to take innovative action to provide immunization of our children by removal of barriers which impede vaccine delivery and by improving access to immunization services.

(2) It is also the purpose of the Childhood Vaccine Act to provide authorization for childhood immunization programs and demonstration or pilot projects that document childhood immunization trends, encourage cooperation between and use of both private practitioners and public providers in offering health care to children, and otherwise assess a total approach to immunization against childhood diseases.

Sec. 32. That section 71-529, Revised Statutes Supplement, 1992, be amended to read as follows:

71-529. The Department of Health may participate in the national efforts described in sections 71-527 and 71-528 and may develop a statewide immunization action plan which is comprehensive in scope and reflects contributions from a broad base of providers and consumers. In order to implement the statewide immunization action plan, the department may:

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

(2) Apply for and receive public and private awards to purchase vaccines and to administer a statewide comprehensive program;

(3) Provide immunization information and education to the public, parents, health care providers, and educators to establish and maintain a high level of awareness and demand for immunization by parents;

(4) Assist parents, health care providers, and communities in developing systems, including demonstration and pilot projects, which emphasize well-child care and the use of private practitioners and which improve the availability of immunization and improve management of immunization delivery so as to ensure the adequacy of the vaccine delivery system;

(5) Evaluate the effectiveness of these statewide efforts, conduct ongoing measurement of children's immunization status, identify children at special risk for deficiencies in immunization, and report on the activities of the statewide immunization program annually to the Legislature and the

citizens of Nebraska; and

(6) Recognize persons who volunteer their efforts towards achieving the goal of providing immunization of the children of Nebraska and in meeting the Healthy People 2000 objective of series-complete immunization coverage for ninety percent or more of United States children by their second birthday;

(7) Establish a statewide program to immunize Nebraska children from birth up to six years of age against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis B, and haemophilus influenzae type B. The program shall serve children who are not otherwise eligible for childhood immunization coverage with medicaid or other federal funds or are not covered by private third-party payment; and

(8) Contract to provide vaccine under the statewide program authorized under subdivision (7) of this section without cost to health care providers subject to the following conditions:

(a) In order to receive vaccine without cost, health care providers shall not charge for the cost of the vaccine. Health care providers may charge a fee for the administration of the vaccine but may not deny service because of the parent's or guardian's inability to pay such fee. Fees for administration of the vaccine shall be negotiated between the department and the health care provider, shall be uniform among participating providers, and shall be no more than the cost ceiling for the region in which Nebraska is included as set by the Secretary of the United States Department of Health and Human Services for the Vaccines for Children Program authorized by the Omnibus Budget Reconciliation Act of 1993.

(b) Health care providers shall administer vaccines according to the schedule recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention or by the American Academy of Pediatrics unless in the provider's medical judgment, subject to accepted medical practice, such compliance is medically inappropriate; and

(c) Health care providers shall maintain records on immunizations as prescribed by this section for inspection and audit by the Department of Health or the Auditor of Public Accounts, including responses by parents or guardians to simple screening questions related to payment coverage by public or private third-party payors, identification of the administration fee as separate from any other cost charged for other services provided at the same time the vaccination service is provided, and other information as determined by the department to be necessary to comply with subdivision (5) of this section.

Sec. 33. That section 71-1331, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1331. (1) Every licensed funeral establishment and branch establishment shall pay biennially a fee for the renewal of its license. The renewal fee payable by a licensed funeral establishment or branch establishment shall be established in rules and regulations of the department and shall be not less than ten dollars and not more than four hundred dollars. All renewal fees shall become due and payable on February 1 of each even-numbered year. Renewals shall be processed in accordance with section 71-110, except that the fee for late renewal shall not exceed twenty-five dollars.

(2) Any person, partnership, limited liability company, firm, corporation, association, or other organization which (a) without having complied with sections 71-1301 to 71-1306 and 71-1326 to 71-1354 and without having first obtained a license (i) engages directly or indirectly in the business of funeral directing and embalming, (ii) holds himself, herself, or itself out to the public as a funeral director and embalmer, or (iii) performs or attempts to perform any of the services of a funeral establishment or branch establishment or of a funeral director and embalmer relating to the disposition of dead human bodies or (b) continues to perform such services after the license has expired or has been revoked or suspended shall be guilty of a Class III misdemeanor and shall be dealt with in the same manner as outlined in section 71-167. Each day so engaged in such business shall constitute and be deemed a separate offense.

Sec. 34. That section 71-1626, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1626. Approved A county, district, or city-county health department shall mean a state-approved local full-time public health service means a full-time service (1) utilizing local, state, federal, and other funds; or any combination thereof, (2) employing qualified public health medical, nursing, environmental health, health education, and other essential personnel; working who work under the direction and supervision of a full-time qualified medical director or of a full-time qualified lay administrator, are well-trained in public health work, and are assisted at least part time by at

least one medical consultant who shall be a licensed physician, and (3) conducted in conformity with the rules, regulations, and policies of the Department of Health. ~~Such~~ The medical director or lay administrator shall be called a the health director.

Sec. 35. That section 71-1627, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1627. Any county or group of counties may establish a county or district health department with a medical health director or lay administrator, well-trained in public health work and assisted at least part time by at least one medical consultant who shall be a licensed physician, at its head, who shall be required to give his or her entire time to the duties of his the office, and such other necessary qualified full or part-time medical health officers, environmental health specialists, and such sanitary inspectors, public health nurses, health educators, and clerical assistants as may be necessary to carry on the activities pertinent to a county or district health department. PROVIDED, any county having a population of less than thirty thousand inhabitants shall not establish a county health department, or be a part of a district health department, unless the agreement whereby such county or district health department is provided for shall be approved by a majority of the legal voters of the county or proposed district voting upon the ratification and approval of such agreement, as provided in sections 71-1626 to 71-1628, 71-1630, and 71-1631.

Sec. 36. That section 71-1628, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1628. The county board of any county may (1) make an agreement with the Department of Health of the state relative to the expenditure of local, state, federal, and other funds, or any of such funds combination thereof, available for public health in their such county; (2) after notice and public hearing, establish and maintain a single full-time local health department for their such county and any other counties, which combine for that purpose, and, pursuant to such combination or agreement, such counties may cooperate with one another and the Department of Health of the state, and may contribute to a joint fund in carrying out the purpose and intent of sections 71-1626 to 71-1636. The the duration and nature of such agreement shall be evidenced by the resolutions of the county boards of such counties and such agreement shall be submitted to and approved by the Department of Health; and or (3) cooperate with any city which has an established department of health in the establishment and maintenance of a city-county health department. The duration and nature of such an agreement shall be evidenced by resolutions of the city council of the city and the county board participating. Such and such agreement shall be submitted to and approved by the Department of Health. No such agreement shall be final and binding upon any county having a population of less than thirty thousand inhabitants unless and until a regular or special election, as herein provided, has been held as a referendum thereon in the county where the county health department, or in the counties where the district health department, is sought to be established, and a majority of all the qualified electors voting thereon shall vote in favor of the ratification and approval of such agreement. The proposed agreement shall be submitted to the electors of the county or district in which it is sought to establish such county or district health department at a special election to be called for that purpose by the county commissioners of the county or counties participating in such agreement, or at a general election, to be held not less than thirty nor more than ninety days after the approval of such agreement by the Department of Health. The election shall be called, proclaimed, held, conducted, and canvassed after the manner of general or special elections held for the submission of propositions to the voters of a county as provided in sections 23-126 and 23-128. The proposition to be submitted to the electors shall be stated on the ballot substantially as follows:

Shall the agreement for the establishment of a county (or district) health department, which agreement is on file in the office of the county clerk of _____ County, Nebraska, be ratified and approved?

Yes

No

Sec. 37. That section 71-1628.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1628.01. A county or district health department established under sections 71-1626 to 71-1636 may be terminated, following a public hearing, by a majority vote of the county board members for any county having a health department or of the majority of county boards having a district health department, legal electors of such county or district voting upon the proposition. The question of such termination shall be submitted to the

electors whenever all governing boards of the contracting agencies shall; by resolution; agree to submit the question; or whenever a petition requesting the submission of such question signed by qualified electors in number not less than twenty-five percent of all the votes cast for Governor in the last general election in the county; if a county health department; or in each of the counties comprising the district; if a district health department; shall be filed with the county clerk or county clerks of such county or counties:

Sec. 38. That section 71-1629, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1629. (1) The Any county board of such a county shall be authorized to which has established a county or city-county health department may (1) (a) incur the expenses necessary for the establishment and maintenance of such county health department or of a city-county health department; (2) levy and collect an annual tax to meet and pay the same; and (3) and (b) appropriate and use any unused funds in the general fund belonging to the county for the purposes set forth in sections 71-1626 to 71-1636.

(2) An annual tax to meet and pay the expenses necessary for the establishment and maintenance of a county or city-county health department may be levied and collected (a) by the county board of a county which has a population of thirty thousand inhabitants or more or (b) by the county board of a county which has a population of less than thirty thousand if the county board has put the proposition of having such a tax to the electors of the county and imposition of the tax has been approved by a majority of electors voting on the proposition. The election shall be called, proclaimed, held, conducted, and canvassed in the manner of general or special elections held for the submission of propositions to the voters of a county as provided in sections 23-126 and 23-128.

Sec. 39. That section 71-1629.01, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1629.01. In counties where a district health department is established, county boards of such counties are authorized and empowered to The county boards of the counties which have established a district health department may levy and collect an annual tax of not to exceed eight-tenths of one cent on each one hundred dollars upon the taxable value of all the taxable property in such county as may be necessary to meet the expenditures of such district health department in proportion to which the population of such county bears to the entire population of such district.

Sec. 40. That section 71-1629.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1629.02. Municipalities, located within such counties which have established health departments or which may join in the establishment of a city-county health department, are authorized to may (1) cooperate in the maintenance of such health departments as health departments for such municipalities, (2) incur the necessary expenses for their proportionate share in the establishment and maintenance of such health departments, and (3) levy and collect an annual tax to meet and pay the same such expenses.

Sec. 41. That section 71-1630, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1630. (1) When a health department has been established by the county board of such a county and approved by the Department of Health of the State of Nebraska as a county health department, the county board of such county shall appoint a board of health, which shall consist of the following members: (a) One member of the county board, (b) one dentist; (c) one physician; and (d) the county clerk or superintendent, who shall be appointed by the county board of commissioners or supervisors; (e) a representative of the county dental society chosen from a list of three names submitted by the county dental society; (d) a representative of the county medical society, chosen from a list of three names submitted by the county medical society; and (e) five six public-spirited men or women interested in the health of the community. The representatives of the county dental society and the county medical society shall be appointed for a period of three years and two of the five said public-spirited men or women interested in the health of the community for a period of two years and the others for a period of three years. The physician and dentist shall each serve an initial term of three years. Three public-spirited men or women shall each serve an initial term of three years, and three public-spirited men or women shall each serve an initial term of two years. After the initial their terms of office expire, each new appointment shall be for a period term of three years. No member shall serve more than two consecutive three-year terms. Appointments to fill any vacancies shall be for the unexpired term of the member whose term is being filled by such appointment. A county association or society of dentists or physicians or its managing board may submit each year to the county board a

list of three persons of recognized ability in such profession. If such a list is submitted, the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(2) By When a district health department has been established by a joint resolution of the county boards of each county in the a district health department, the county boards of such district shall meet and establish a district board of health with due consideration for a fair and equitable representation from the entire area to be served. The district board of health shall consist of the following members: (a) One member of each county board in the district, (b) at least one physician, (c) at least one dentist, and (d) from each county chosen from a list of three names submitted by the medical society of each county in the district, or if any county does not have a medical society, a physician chosen from a list of three physicians residing and practicing in such district, submitted by the district medical society, (e) the county superintendent or clerk from each county in the district, (d) one dentist from each county, chosen from a list of three names submitted by each county dental society in the district, or if any county has no dental society, a dentist chosen from a list of three dentists residing and practicing in the district, submitted by the district dental society, and (e) one or more public-spirited men or women interested in the health of the community from each county in the district. One-third of the members, one-third of whom shall be appointed for a term terms of one year, one-third for a period terms of two years, and one-third for a period terms of three years. After and after their terms of office shall expire, each new appointment shall be for a period term of three years. No member shall serve more than two consecutive three-year terms. Appointments to fill any vacancies shall be for the unexpired terms. A county association or society of dentists or physicians or its managing board may submit each year to the county boards a list of three persons of recognized ability in such profession. If such a list is submitted, the county boards, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(3) When the county board of any such county and the city council of any city located therein in such county have drawn up an agreement, approved by the Department of Health, for maintaining a city-county health department, the city and county shall establish a city-county board of health. It shall consist of the following members selected by a majority vote of the city council and the county board, with due consideration to be given in an endeavor to secure a fair and equitable representation from the entire area to be served: (a) One representative of the county board, to be chosen by the county board, (b) one representative from the city council, to be chosen by the city council, (c) one physician, representative from the county medical society, chosen from a list of five names submitted by the county medical society to the city council and county board and selected by a majority vote of the city council and county board, (d) one dentist, representative from the county dental society, chosen from a list of five names submitted by the county dental society to the city council and county board and selected by a majority vote of the city council and county board, and (e) five public-spirited men or women, not employed in the health industry or in the health professions, who are interested in the health of the community, to be chosen by the majority vote of the city council and county board. One-third of its members shall be appointed for a term terms of one year, one-third for a period terms of two years, and one-third for a period terms of three years. After their terms of office shall expire, each new appointment shall be for a period of three years. A county association or society of dentists or physicians or its managing board may submit each year to the city council and the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the city council and the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named. No member shall serve more than two consecutive three-year terms.

Sec. 42. That section 71-1757, Revised Statutes Supplement, 1993, be amended to read as follows:

71-1757. (1) The certificate of each person certified under the Nebraska Certified Nurse Midwifery Practice Act shall be renewed at the same time and in the same manner as renewal of a license for a registered nurse, except that no additional fee shall be charged for late renewal. Renewal of such a certificate shall require that (a) the applicant have a license as a registered professional nurse issued by the state and (b) documentation of continued clinical competencies, if deemed necessary by the boards, either by reference, peer review, or examination.

(2) The department shall collect fees as follows:

- (a) Application for certification, not in excess of fifty dollars; and
- (b) Certificate renewal, not in excess of twenty dollars annually or forty dollars biennially.
- (3) The department may also establish and collect fees for:
- (a) Reexamination;
- (b) Applications for temporary permits; and
- (c) Applications for reinstatement after revocation, suspension, or expiration of certification.

Sec. 43. That section 71-2023, Revised Statutes Supplement, 1993, be amended to read as follows:

71-2023. The Department of Health shall issue licenses for the operation of health care facilities subject to sections 71-2017 to 71-2029 and the Nebraska Nursing Home Act which are found to comply with such sections or act and such rules and regulations as are lawfully adopted and promulgated by the department. As a condition for licensure or renewal of a license, such institutions shall submit to the department a list of the names of all individual owners, partners, members, and members of boards of directors owning or managing such institutions and any other persons with financial interests or investments in such institutions. Every such licensed institution shall have a sign prominently posted in the lobby or entry area of such institution. Such sign shall be in the form of a printed card with a minimum height of twenty inches and a width of fourteen inches with each letter to be a minimum of one-fourth inch in height. The sign shall contain the name, street address, city, state, and zip code of all individual owners, partners, and members of the board of directors owning or managing such institution, except that the name of any owner who owns less than five percent of the institution shall not be included on the sign.

The department may (1) deny, suspend, or revoke licenses of such health care facilities or (2) take other disciplinary measures against the license of any such health care facility, other than a hospital, on any of the following grounds:

(a) Violation of any of the provisions of sections 71-2017 to 71-2029 or the Nebraska Nursing Home Act or the rules and regulations lawfully adopted and promulgated pursuant thereto;

(b) Permitting, aiding, or abetting the commission of any unlawful act;

(c) Conduct or practices detrimental to the health or safety of patients, residents, and employees of the facility, except that this subdivision shall not be construed to have any reference to healing practices authorized by law;

(d) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to such facility for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations promulgated by the Department on Aging; or

(e) Discrimination or retaliation against an employee or resident of any such facility who has presented a grievance or information to the office of the state long-term care ombudsman; or

(f) Failure to file a report required by section 12 of this act.

If the Department of Health determines to deny, suspend, or revoke a license, it shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such thirty-day period, requests a hearing in writing. Thereupon the applicant or licensee shall be given a fair hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either registered or certified mail to the applicant or licensee. The decision shall become final thirty days after the copy is mailed unless the applicant or licensee, within such thirty-day period, appeals the decision under section 71-2027. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations.

Other disciplinary actions taken shall be in accordance with the applicable provisions of sections 71-2023.01 to 71-2023.07 or 71-6025 to

71-6031.

Sec. 44. That section 71-3401, Revised Statutes Supplement, 1992, be amended to read as follows:

71-3401. Any person, hospital, sanitarium, nursing or nursing home, rest home, or other organization may provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person to the Department of Health, the Nebraska State Medical Association or any of its allied medical societies, or the Nebraska Association of Hospitals and Health Systems, any in-hospital staff committee, or any joint venture of such entities to be used in the course of any study for the purpose of reducing morbidity or mortality, and no liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided such information or material, by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

Sec. 45. That section 71-3402, Revised Statutes Supplement, 1992, be amended to read as follows:

71-3402. The Department of Health, the Nebraska State Medical Association or any of its allied medical societies, or the Nebraska Association of Hospitals and Health Systems, any in-hospital staff committee, or any joint venture of such entities shall use or publish the material specified in section 71-3401 only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances.

Sec. 46. That section 71-3706, Revised Statutes Supplement, 1993, be amended to read as follows:

71-3706. The Board of Registration for Environmental Health Specialists shall consist of five six members appointed by the State Board of Health. Each member One member shall be a layperson who is at least the age of majority, who has been a resident of the state for at least five years immediately preceding appointment, and who is a representative of consumer viewpoints. Each of the other members shall have been engaged in environmental health for at least ten years, and shall have had responsible charge of work for at least five years at the time of his or her appointment, and Each member shall be a registered environmental health specialist. Each member of the Board of Registration for Environmental Health Specialists shall receive as compensation not more than twenty-five dollars per day for each day actually spent in traveling to and from and while attending sessions of the board and its committees, and each member shall also receive the necessary expenses incident to the performance of his or her duties as provided by sections 81-1174 to 81-1177 and subject to section 71-3708.01.

The Department of Health shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 47. That section 71-3707, Revised Statutes Supplement, 1993, be amended to read as follows:

71-3707. One appointive member of the board shall be designated for a term expiring December 31, 1964, one shall be designated for a term expiring December 31, 1965, and two shall be designated for terms expiring December 31, 1966. The layperson shall be appointed for a three-year term beginning on January 1, 1995. Thereafter the term of office of each board member shall be for three years. Vacancies shall be filled by appointment by the State Board of Health for unexpired terms. The State Board of Health shall have power to remove from office any member of the Board of Registration for Environmental Health Specialists, after a public hearing pursuant to the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a registration may be suspended or revoked, for a lack of registration in the member's profession, or for other sufficient cause.

Sec. 48. That section 71-3708, Revised Statutes Supplement, 1992, be amended to read as follows:

71-3708. (1) The members of the board shall organize as soon as appointed and, annually thereafter in the month of April, shall elect from their number a chairperson, a vice-chairperson, and a secretary. The secretary shall continue in office at the pleasure of the board.

(2) The board shall make such rules as are necessary to carry out the provisions of sections 71-3702 to 71-3715.

(3) The board shall hold at least one meeting each year to review and evaluate applications for registration as environmental health specialists or trainees, conduct examinations, review and approve all bills, prepare and approve reports, and transact all other business as may be necessary to carry out the provisions of sections 71-3702 to 71-3715. Only board members shall be entitled to vote at board meetings.

(4) The board shall issue certificates of registration to applicants who have been found qualified as environmental health specialists or trainees, to which certificate the official seal of the board has been affixed.

(5) ~~Three~~ ~~Four~~ members of the board shall constitute a quorum, and special meetings of the board shall be called by the secretary upon written request of any two members of the board or upon a written request signed by ten registered environmental health specialists.

(6) All board meetings shall be open to any registered environmental health specialist.

(7) The secretary of the board shall transmit any and all funds received by the board to the Department of Health, Bureau of Examining Boards. Such funds shall be remitted to the State Treasurer and by him or her be credited to the Board of Registration for Environmental Health Specialists Fund, which fund is hereby created. All expenses of the board shall be paid from the fund by voucher signed by the chief of the Bureau of Examining Boards and no part of the General Fund shall be expended for this purpose. Any money in the Board of Registration for Sanitarians Fund on September 6, 1991, shall be transferred to the Board of Registration for Environmental Health Specialists Fund on such date. Any money in the Board of Registration for Environmental Health Specialists Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(8) Funds collected under the provisions of sections 71-3702 to 71-3715 shall be used to pay expenses. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including authorized compensation and clerical help, and any expenses incident to the administration of such sections relating to other states shall be paid out of such funds. Any surplus at the end of the fiscal year or biennium shall be retained by the board for future expenditures.

(9) The board shall receive all registration renewal funds above the necessary operating expenses incurred by the Department of Health, Bureau of Examining Boards, for annual renewal of registration.

Sec. 49. That section 71-3710, Revised Statutes Supplement, 1992, be amended to read as follows:

71-3710. (1) The board shall prescribe and provide an application form for the use of all applicants. Applicants for registration as environmental health specialists shall submit a fee of ten dollars and applicants for registration as trainees shall submit a fee of five dollars at the time of making application for registration. Such fees shall not be refundable. The board may also assess an additional fee for the cost of the examination when necessary.

An environmental health specialist registered under sections 71-3702 to 71-3715 may renew his or her certificate by paying the board a biennial renewal fee of not less than thirty dollars nor more than ~~two~~ ~~three~~ hundred fifty dollars as the board shall direct. Such fee shall be due and payable on or before January 1, 1987, and on January 1 of each odd-numbered year for which a renewal certificate is issued. All certificates shall expire on December 31 of each even-numbered year. Procedures for renewal and for assessment of additional fees for late renewal or reinstatement shall be in accordance with section 71-110.

In no case shall registration for a trainee exceed a two-year period.

(2) Each registered environmental health specialist or trainee in active practice in the state shall be required on or before December 31 of each even-numbered year to attend twenty-four hours biennially of such approved scientific schools, clinics, forums, lectures, or environmental health specialist educational seminars, as may be announced and approved by the Director of the Bureau of Examining Boards under direction from the board, as a prerequisite for the registrant's next subsequent biennial certificate of registration renewal. At least twelve hours of such educational program shall be conducted annually within the State of Nebraska.

Each registered environmental health specialist and trainee in active practice within the State of Nebraska shall, on or before December 31 of each even-numbered year, certify to the Director of the Bureau of Examining

Boards that he or she has complied with this subsection during the preceding two-year period. The Director of the Bureau of Examining Boards shall, on or before December 31 of each even-numbered year, report all registrants who have complied with the educational requirements to the board. Any registrant who has not complied with such requirements shall not be issued a renewal certificate of registration except if he or she is exempt as provided in subsection (3) of this section. Procedures for denial of renewal of the certificate of registration of such registrants shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149. Additional fees for late renewal shall be assessed in accordance with section 71-110.

(3) A registrant shall be exempt from the requirements of subsection (2) of this section if he or she:

(a) Holds a Nebraska certificate of registration but is not practicing as a registered environmental health specialist or registered trainee in Nebraska;

(b) Serves in the regular armed forces of the United States during any part of the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(c) Attends a college, university, or other institution of higher education for a residence period of time in excess of eight months during any part of the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(d) Submits proof that he or she was suffering from a serious or disabling illness or physical disability which prevented his or her attendance at any qualified educational seminar within the State of Nebraska during the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(e) Had first registered within the twenty-four months immediately preceding the biennial certificate of registration renewal date; or

(f) Is a registered environmental health specialist in good standing with the board who has completely retired from the active practice of environmental sanitation.

Sec. 50. That section 71-4711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4711. Licenses issued pursuant to sections 71-4701 to 71-4719 shall be subject to biennial renewal and shall expire December 31 of each even-numbered year in accordance with section 71-110. Procedures for renewal and for assessment of additional fees for late renewal shall be in accordance with section 71-110.

Sec. 51. That section 71-4712, Revised Statutes Supplement, 1992, be amended to read as follows:

71-4712. (1) The department may deny, revoke, or suspend any license to practice as a hearing aid instrument dispenser and fitter issued by the department or applied for pursuant to section 71-4707 or otherwise discipline any applicant or licensee when the applicant or licensee commits or is convicted of any of the acts or offenses set out in sections 71-147 and 71-148 or the following acts or offenses:

(a) Fitting and selling a hearing aid to a child under the age of sixteen who has not been examined and cleared for hearing aid use within a six-month period by an otolaryngologist without a signed waiver by the legal guardian. This subdivision shall not apply to the replacement with an identical model of any hearing aid within one year of its purchase;

(b) Any other condition or acts which violate the Trade Practice Rules for the Hearing Aid Industry of the Federal Trade Commission or the Food and Drug Administration;

(c) Conducting business while suffering from a contagious or infectious disease; or

(d) Violating any provision of sections 71-4701 to 71-4719.

(2) The department shall deny, revoke, suspend, or otherwise discipline a license in accordance with the Uniform Licensing Law.

Sec. 52. That section 71-4715, Revised Statutes Supplement, 1993, be amended to read as follows:

71-4715. (1) There is hereby established a Board of Hearing Aid Instrument Dispensers and Fitters which shall guide, advise, and make recommendations to the department.

(2) Members of the board shall be residents of the state. The board shall consist of three hearing aid instrument dispensers and fitters, one otolaryngologist, ~~and~~ one audiologist, and one layperson. Each hearing aid instrument dispenser and fitter on the board shall have not less than five years of experience and shall hold a valid license. The layperson shall be at least the age of majority, a resident of this state at least five years

preceding appointment, and a representative of consumer viewpoints.

(3) All members of the board shall be appointed by the State Board of Health. The term of office of each member shall be for four years, except that of the first members appointed under sections 71-4701 to 71-4719, two shall be appointed for two years, two shall be appointed for three years, and one shall be appointed for four years. The State Board of Health shall appoint the layperson as of December 1, 1994, for a term of four years. Before a member's term expires, the State Board of Health shall appoint a successor to take office on the expiration of such term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members shall annually designate one member to serve as chairperson and another to serve as secretary-treasurer. No member who has served two or more full terms may be reappointed to the Board of Hearing Aid Instrument Dispensers and Fitters until at least one year after the expiration of his or her most recent full term of office.

(4) Members of the board shall receive for each day actually engaged in the duties of the office a per diem amount of twenty-five dollars and reimbursement for actual and necessary travel and other expenses as provided in sections 81-1174 to 81-1177. Such remuneration and reimbursement shall be paid from appropriations made for this purpose.

(5) The State Board of Health shall have power to remove from office at any time any member of the Board of Hearing Aid Instrument Dispensers and Fitters, after a public hearing pursuant to the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a license in the member's profession may be suspended or revoked, for a lack of licensure in the member's profession, or for other sufficient cause.

Sec. 53. That section 71-5504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5504. The board shall be composed of the Director of Health or his or her designee and ~~eleven~~ twelve members appointed by the State Board of Health, six of whom shall be approved licensed physicians experienced in advanced emergency medical care with no more than three from any one of the emergency medical services regions of the state, one of whom shall be a registered nurse experienced in advanced emergency medical care, one of whom shall be a physician assistant experienced in advanced emergency medical care, ~~one~~ two of whom shall be a consumer consumers, one of whom shall be an emergency medical technician-intermediate or an emergency medical technician-paramedic currently certified in Nebraska, and one of whom shall be the supervisor of an approved service program.

Sec. 54. That section 71-5505, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5505. The State Board of Health shall make the initial appointments to the board within sixty days after March 21, 1977. In the making of initial appointments, three physicians and one registered nurse shall be appointed to serve for a term of one year, two physicians, a consumer, and a physician's assistant shall be appointed to serve for a term of two years, and a physician, a registered nurse, and a paramedic program administrator shall be appointed to serve for a term of three years. The second consumer shall be appointed as of December 1, 1994, for a term of three years. Thereafter, all members shall be appointed for three-year terms. Each member shall hold office until the expiration of his or her term or until a successor has been appointed. Any vacancy occurring on the board membership, other than by expiration of term, shall be filled within sixty days by the State Board of Health by appointment from the appropriate class for the unexpired term.

Sec. 55. That section 71-5652, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5652. The purposes of the Rural Health Systems and Professional Incentive Act shall be to (1) create the Nebraska Rural Health Advisory Commission and establish its powers and duties, (2) establish a student loan program that will provide financial incentives to medical students and physician assistant students who agree to practice their profession in a designated ~~medical~~ health profession shortage area within Nebraska, (3) establish a loan repayment program that will provide financial incentives to ~~physicians and physician assistants~~ eligible public health professionals who agree to practice their profession in a designated ~~medical~~ health profession shortage area within Nebraska, and (4) establish a community-match program for ~~student loans and loan repayments~~ that will combine state and local resources to provide financial incentives to rural practice, and (5) provide funding at

the level originally appropriated by the Legislature for FY1993-94 and FY1994-95 for the family practice residency program assistance authorized under section 71-5206.01.

Sec. 56. That section 71-5653, Revised Statutes Supplement, 1992, be amended to read as follows:

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

(1) Commission shall mean the Nebraska Rural Health Advisory Commission;

(2) Department shall mean the Department of Health;

(3) Full-time practice shall mean a minimum of forty hours per week;

(4) Health care shall mean both somatic and mental health care services;

(5) Office shall mean the Office of Rural Health;

(6) Primary care shall mean family practice, general practice, general internal medicine, general pediatrics, general surgery, and obstetrics and gynecology;

(7) Qualified educational debts shall mean government and commercial loans obtained by students for ~~health profession school~~ postsecondary education tuition, other educational expenses, and reasonable living expenses, as determined by the department, but shall not include loans received under the act or the Nebraska Medical Student Assistance Act; and

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

Sec. 57. That section 71-5659, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5659. The commission shall have the following powers and duties:

(1) Advise the department regarding the development and implementation of a state rural health policy;

(2) Advise the department and other appropriate parties in all matters relating to rural health care;

(3) Serve as an advocate for rural Nebraska in health care issues;

(4) Maintain liaison with all agencies, groups, and organizations concerned with rural health care in order to facilitate integration of efforts and commonality of goals;

(5) Identify problems in the delivery of health care in rural Nebraska, in the education and training of health care providers in rural Nebraska, in the regulation of health care providers and institutions in rural Nebraska, and in any other matters relating to rural health care;

(6) Prepare recommendations to the appropriate bodies to alleviate the problems identified;

(7) Advise the department regarding the Rural Health Systems and Professional Incentive Act;

(8) Designate medical health profession shortage areas in Nebraska; and

(9) Select recipients of financial incentives available under the act.

Sec. 58. That section 71-5661, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5661. The financial incentives provided by the Rural Health Systems and Professional Incentive Act shall consist of (1) student loans to eligible students for attendance at an eligible school as determined pursuant to section 71-5662 and (2) the repayment by the state of qualified educational debts owed by eligible ~~physicians or physician assistants~~ health professionals as determined pursuant to such section. Funds for such incentives shall be appropriated from the General Fund to the department for such purposes.

There is hereby created in the department the Rural Health Professional Incentive Fund into which payments received pursuant to section 71-5666 and appropriations from the General Fund shall be credited. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 59. That section 71-5662, Revised Statutes Supplement, 1992, be amended to read as follows:

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

(2) To be eligible for loan repayment under the act, an applicant or a recipient shall be a ~~medical student or a physician assistant student,~~ a nurse practitioner student, a master's level mental health student, or a

~~clinical psychology student in the final year of education at an accredited medical or physician assistant education program in Nebraska; or a graduate of an accredited medical education program in Nebraska enrolled in an accredited primary care or psychiatric residency program, or a graduate of an accredited medical or physician assistant education program in Nebraska who has been practicing in a designated medical profession shortage area in Nebraska for less than three years.~~

Sec. 60. That section 71-5663, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5663. (1) The amount of financial assistance provided through student loans pursuant to the Rural Health Systems and Professional Incentive Act shall be limited to ten thousand dollars for each recipient for each academic year and shall not exceed forty thousand dollars per medical student or twenty thousand dollars per physician assistant student.

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

Sec. 61. That section 71-5664, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5664. In screening applicants for financial incentives, the commission shall consider the following factors:

(1) Motivation to practice in a medical health profession shortage area in Nebraska;

(2) Motivation and preference toward primary care or psychiatry; and

(3) Other factors that would influence a choice to practice in a medical health profession shortage area in Nebraska.

The commission shall select recipients who are most likely to practice in a medical health profession shortage area in Nebraska.

Sec. 62. That section 71-5665, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5665. The commission shall periodically designate medical health profession shortage areas within the state. The commission shall determine two levels of shortage so that stronger incentives may be tied to practice in areas of most critical need. In making such designations the commission shall consider, after consultation with other appropriate agencies concerned with medical health services and with appropriate professional organizations, among other factors:

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

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

(3) Particular local health problems;

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

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

Sec. 63. That section 71-5666, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

(2) If the borrower practices primary care or psychiatry in a designated medical health profession shortage area in Nebraska determined by the commission to be among the areas of most critical need, the loan shall be forgiven as provided in this section. Practice in a designated area shall commence within three months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in a primary care specialty. Loan forgiveness shall occur on a quarterly basis, with completion of the equivalent of three months of full-time practice resulting in the cancellation of one-fourth of the annual loan amount, subject to the following:

(a) If the borrower practices primary care or psychiatry in a

designated medical health profession shortage area which is not among the areas of most critical need, the borrower shall repay fifty percent of the outstanding loan principal. Such repayment shall commence within six months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in a primary care specialty, and shall be completed within a period not to exceed twice the number of years for which loans were awarded;

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

(c) If a borrower who is a medical student determines during the first or second year of medical education that his or her commitment to the loan program cannot be honored, the borrower may repay the outstanding loan principal, plus six percent simple interest per year from the date the loan was granted, prior to graduation from medical school without further penalty or obligation. Physician assistant student loan recipients shall not be eligible for this provision; ~~and~~

(d) If a borrower who is a medical student determines during the third or fourth year of medical education or prior to completion of residency that his or her commitment to the loan program cannot be honored, the borrower shall repay the outstanding loan principal plus twenty-four percent simple interest per year from the date the loan was granted. Such repayment shall commence within six months of the borrower's notification of such intent to the state and shall be completed within a period not to exceed twice the number of years for which loans were awarded; and

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

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

Sec. 64. That section 71-5668, Revised Statutes Supplement, 1993, be amended to read as follows:

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

(1) The loan repayment recipient agrees to practice full-time primary care, mental health care, or psychiatry in a designated medical health profession shortage area for the equivalent of at least two three years and to accept Medicaid patients in his or her practice; and

(2) In consideration of the agreement by the recipient, the State of Nebraska agrees to pay an amount up to ten thousand dollars per year per recipient for physicians and clinical psychologists and up to five thousand dollars per year per recipient for physician assistants, nurse practitioners, and master's level mental health professionals toward qualified educational debts for a maximum of four up to three years. Such payment shall be made directly to the recipient and shall consist of quarterly payments of up to two thousand five hundred dollars to be made upon completion of three months of full-time practice;

(3) If the loan repayment recipient discontinues practice in the shortage area prior to completion of the three-year requirement, the recipient shall repay to the state one hundred twenty-five percent of the total amount of funds provided to the recipient toward loan repayment. Such payment shall commence within three months of the discontinuation of practice and shall be completed within a period not to exceed twice the number of quarters of practice completed; and

(4) If, upon completion of the required three years of practice, the loan repayment recipient still has educational debts remaining and the recipient and the community desire that the practitioner remain in the community, the community may choose to continue to provide funds toward the practitioner's remaining educational debt.

Sec. 65. That section 71-5669, Revised Statutes Supplement, 1992,

be amended to read as follows:

71-5669. The office shall develop and implement a program by which communities or groups of communities within designated ~~medical~~ health profession shortage areas provide ~~a an equal~~ match to state loan repayment funds for physicians and physician assistants eligible health professionals. Such community match shall be (1) ~~at least five thousand dollars per year but not more than ten thousand dollars per year so that the total loan repayment does not exceed twenty thousand dollars per year per recipient for physicians and clinical psychologists~~ and (2) ~~at least two thousand five hundred dollars per year but not more than five thousand dollars per year so that the total loan repayment does not exceed ten thousand dollars per year per recipient for physician assistants, nurse practitioners, and master's level mental health professionals~~. The office shall develop guidelines for community participation in the community-match program. The office shall provide consultation to potential community participants and facilitate the matching of communities, ~~physicians, and physician assistants and health professionals~~.

Sec. 66. That section 71-5674, Revised Statutes Supplement, 1993, be amended to read as follows:

71-5674. For purposes of the Rural Health Opportunities Loan Act:

(1) Allied health professions shall include, but not be limited to, medical technology, physician assistant practice, physical therapy, clinical perfusion, diagnostic medical sonography, nuclear medicine technology, radiologic technology, medical nutrition, and radiation therapy technology;

(2) Designated ~~medical~~ health profession shortage area shall mean such areas as determined by the Nebraska Rural Health Advisory Commission pursuant to section 71-5665;

(3) Designated professional practice area shall mean those areas of the state not included in the federal census standard metropolitan statistical areas;

(4) Eligible disciplines shall mean family practice, general practice, general internal medicine, general pediatrics, general surgery, obstetrics and gynecology, psychiatry, dentistry, dental hygiene, pharmacy, nursing, and allied health professions; and

(5) Full-time practice shall mean a minimum employment of forty hours per week.

Sec. 67. That section 71-5676, Revised Statutes Supplement, 1993, be amended to read as follows:

71-5676. To be eligible for a student loan under the Rural Health Opportunities Loan Act, a student shall be enrolled in the rural health opportunities program and be a student at the University of Nebraska Medical Center. In determining the eligibility of a student, consideration shall be given to (1) the motivation of the student to practice the eligible discipline in a designated professional practice area in Nebraska, (2) the motivation and preference of the student toward the eligible discipline, and (3) other factors which would influence a choice to practice in a designated professional practice area in Nebraska. The first consideration shall be given to students who are found to be most likely to practice in a designated ~~medical~~ health profession shortage area. The student shall be enrolled in a program of studies for an eligible discipline and shall complete such program with satisfactory progress as determined by the academic unit in which the student is enrolled. The student shall also sign an agreement with the Board of Regents of the University of Nebraska which establishes loan repayment schedules pursuant to section 71-5677.

Sec. 68. That section 71-5677, Revised Statutes Supplement, 1993, be amended to read as follows:

71-5677. (1) The maximum amount of the student loans provided by the Rural Health Opportunities Loan Act per student per year shall be the amount of the tuition per year for the student.

(2) Each student loan recipient shall execute an agreement for repayment of any loan received under the act with the Board of Regents of the University of Nebraska which includes the following terms:

(a) The borrower shall practice an eligible discipline full time in a designated ~~medical~~ health profession shortage area or a designated professional practice area for a period which is the equivalent of the number of years of study for which loans were received. If the borrower practices less than full time, the duration of employment shall be extended to a period of time which would be the equivalent of full-time practice for the number of years of study for which loans were received;

(b) The borrower shall sign an agreement with a sponsoring community or communities within six months after his or her completion of formal education which may include a period not to exceed five years to complete specialty training. If no community sponsor can be found to assume

responsibility for the loan payments as provided in section 71-5678, the borrower shall repay the loan. Repayment shall begin within one year of completion of formal training which may include a period not to exceed five years to complete specialty training. Repayment shall be completed within ten years after the student's graduation from the health profession program;

(c) If the borrower practices in a Nebraska standard metropolitan statistical area or practices outside Nebraska, the borrower shall repay two hundred percent of the outstanding loan principal, and if such borrower does not practice in an eligible discipline, the borrower shall repay three hundred percent of the outstanding loan principal, any other statute to the contrary notwithstanding. Such repayment shall be with interest at a rate of one point below the prime interest rate, shall commence within three months of completion of formal training which may include a period not to exceed five years to complete specialty training, and shall be completed within three to five years;

(d) If a borrower determines during the first or second year of health care professional education that his or her commitment to the loan program cannot be honored, the borrower shall repay the outstanding loan principal with interest at a rate of one point below the prime interest rate no later than one year after graduation. Such repayment shall commence at the time it is determined by the borrower that his or her commitment cannot be honored;

(e) If the borrower discontinues the course of study for which the loan was granted, the borrower shall repay one hundred percent of the outstanding loan principal with interest at a rate of one point below the prime interest rate. Such repayment shall commence within six months of the date of discontinuation of the course of study and shall be completed within the number of years for which loans were awarded;

(f) All loan payments shall be made directly to the Rural Health Opportunities Loan Pool Fund in monthly payments; and

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

Sec. 69. Sections 69 to 72 of this act shall be known and may be cited as the Primary Care Provider Act.

Sec. 70. For purposes of the Primary Care Provider Act, primary care shall have the same meaning as in section 71-5653.

Sec. 71. The University of Nebraska Medical Center and the Creighton University Medical Center shall each develop a separate plan to increase the number of graduates from its medical center who enter a primary care postgraduate residency training program or a psychiatry postgraduate residency training program. Each report shall include numerical goals and timeframes for such increases. Each medical center shall request input from the Nebraska Rural Health Advisory Commission in the formation of the plans.

Sec. 72. A report shall be submitted to the Governor and the Legislature as to the efforts of the Nebraska Rural Health Advisory Commission, University of Nebraska Medical Center, and Creighton University Medical Center to increase the number of graduates entering primary care postgraduate residency training programs and psychiatry postgraduate residency training programs. The report shall include recommendations as to further steps that should be taken to increase the number of such graduates. The report shall be submitted to the Nebraska Rural Health Advisory Commission for comment by October 1 in 1994, 1995, and 1996. The report shall be submitted to the Governor and the Legislature by December 1 in 1994, 1995, and 1996.

Sec. 73. That section 71-5829, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5829. On or after August 25, 1989, the existing agreement with the Secretary of the Department of Health and Human Services to conduct reviews of capital expenditures under Public Law 92-603, if any such agreement exists, shall be modified to be consistent with the capital expenditure minimum of section 71-5805.01 except with respect to projects for which applications have been received prior to such date. All applications submitted under the Nebraska Health Care Certificate of Need Act or under the Public Law 92-603, 1122, capital expenditure program shall for which review is also sought under the Health Care Facility-Provider Cooperation Act may be reviewed under a single unified review process at the request of the applicant. The rules, regulations, application, and process described in the act shall also be used by the department to govern and administer the Public Law 92-603, 1122, capital expenditure program. The single unified review process shall result in a decision which shall constitute the determination of the department for the Public Law 92-603, 1122, capital expenditure review and for the certificate of need review and review under the Health Care

Facility-Provider Cooperation Act. A decision under the single unified review process may approve or disapprove applications under the Nebraska Health Care Certificate of Need Act and under the Health Care Facility-Provider Cooperation Act as if they were separately reviewed under the terms of such acts.

Sec. 74. That section 71-6054, Revised Statutes Supplement, 1993, be amended to read as follows:

71-6054. (1)(a) The board shall issue a license to an applicant who submits (i) satisfactory evidence of completion of an associate degree or its equivalent in long-term care administration, allied health, or human services, including completion of one two-credit-hour course in each of the following areas: General administration; social gerontology; health problems of the aged; patient services and care; health and social service delivery systems; and a seminar on contemporary developments in aging, including the Older Americans Act, as now or hereafter amended, (ii) satisfactory evidence of completion of an administrator-in-training program under a certified preceptor, and (iii) evidence of successful passage of the National Association of Boards of Examiners for Nursing Home Administration written examination and a state examination that covers applicable state statutes and rules and regulations adopted and promulgated by the department as approved by the board, except that two years of successful experience as an administrator of a domiciliary or residential care facility of at least one hundred residents, immediately preceding application for licensure, may be considered equivalent to the requirements prescribed in subdivision (ii) of this subdivision. The board shall evaluate the experience of an applicant requesting the substitution of the requirements listed in subdivision (i) of this subdivision with two years of experience and shall obtain the affidavit of at least two licensed nursing home administrators in Nebraska testifying that the applicant is of good moral character and in good standing as an administrator of a domiciliary or residential care facility. In no case shall the board accept such substitution if the domiciliary or residential care facility while under the direction and administration of the applicant had its license suspended, denied, or revoked. The board shall license administrators in accordance with sections 71-6053 to 71-6068 and standards, rules, and regulations adopted and promulgated by the board pursuant to such sections. The license shall not be transferable or assignable, and each administrator shall be full time and responsible for the operation of only one licensed facility.

(b) Notwithstanding the provisions of sections 71-6053 to 71-6068, the board shall issue a license as a nursing home administrator to an applicant who will function as the administrator of a facility caring primarily for persons with head injuries and associated disorders who submits satisfactory evidence that he or she (i) has at least two years of experience working with persons with head injuries or severe physical disabilities, at least one of which was spent in an administrative capacity, (ii) is (A) a psychologist with at least a master's degree in psychology from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (B) a physician licensed under the Uniform Licensing Law to practice medicine and surgery or psychiatry and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (C) an educator with at least a master's degree in education from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, or (D) a certified social worker, a certified master social worker, or a licensed mental health practitioner certified or licensed under the Uniform Licensing Law and has at least three years of social work or mental health practice experience and specialized training or one or more years of experience working with persons who have experienced traumatic head injury or are severely physically disabled, and (iii) is of good moral character.

A license issued pursuant to this subdivision shall be issued without examination and without the requirement of completion of an administrator-in-training program. Such license may be renewed without the completion of any continuing education requirements.

(2) If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

(b) Request that a license which will be valid until the next

subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

(3) Licenses may be denied, suspended, limited, refused renewal, or revoked by the department for due cause which shall include: (a) Fraud in procuring a license; (b) immoral, unprofessional, or dishonorable conduct; (c) habitual intoxication or addiction to the use of drugs; (d) distribution of intoxicating liquors or drugs for other than lawful purposes; (e) conviction of a felony; (f) physical or mental incapacity to perform professional duties; (g) violation of any provision of sections 71-6053 to 71-6068 or standards, rules, and regulations adopted and promulgated thereunder or of any law or standards, rules, and regulations adopted and promulgated by the department relating to the proper administration and management of a home for the aged or infirm or nursing home; (h) commission of any of the acts or offenses set forth in sections 71-147 and 71-148; and (i) failure to pay the required fees. Except in cases of failure to pay the required fees, no license shall be denied, suspended, limited, refused renewal, or revoked except after due notice and opportunity for a hearing. Disciplinary actions and proceedings shall be conducted as specified in the Uniform Licensing Law. Any denial, suspension, limitation, refusal of renewal, or revocation of such license may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. A person whose license has been revoked, suspended, or limited may petition the board for reinstatement in the manner provided by sections 71-161.04 to 71-161.06.

Sec. 75. That section 71-6061, Revised Statutes Supplement, 1992, be amended to read as follows:

71-6061. (1) Every administrator shall be licensed by the board. All licenses, except provisional licenses, shall be renewed in each even-numbered year beginning in 1988 upon the payment of the renewal fee. Procedures for renewal and for assessment of additional fees for late renewal shall be in accordance with section 71-110. ~~The board shall notify each licensed nursing home administrator by letter addressed to him or her at his or her last place of residence, as noted upon its records, that his or her license expires on December 31 and of the requirements for renewal of the license. Any such licensee who fails to pay the renewal fee specified in this section on or before December 31 shall be given notice in the same manner advising him or her (a) of the failure to pay the license renewal fee, (b) that the license on that account expired on December 31, (c) that the board will suspend action until January 31, (d) that upon the receipt of the license renewal fee together with the late renewal fee specified in this section on or before January 31, no order of revocation will be issued, and (e) that upon the failure to receive the amount then due and the late renewal fee specified in this section, an order of revocation will be issued.~~ All fees collected under this section shall be payable to the department and shall then be paid monthly by the department to the State Treasurer who shall keep the same in a special fund to be known as the Board of Examiners in Nursing Home Administration Fund, which fund shall be used and expended by the department to pay the compensation and travel expenses of members and employees of the board and other expenses necessary for the board to administer and carry out sections 71-6053 to 71-6068.

(2) The fees to be paid by the applicants and licensees shall be as follows:

(a) Fee for initial licensure examination (nonrefundable)	\$100.00
(b) Fee for initial license	\$250.00
(c) Fee for examination by reciprocity (nonrefundable)	\$50.00
(d) Fee for reciprocity license	\$250.00
(e) Application for provisional license valid for a period of only one hundred eighty calendar days (nonrefundable)	\$100.00
(f) Preceptor certification fee	\$25.00
(g) Administrator-in-training certificate fee	\$50.00
(h) Fee for renewal of an active license	\$250.00
license	\$350.00
(i) Late renewal fee	\$25.00
(j) License reinstatement fee	\$10.00
(i) License reinstatement fee	\$10.00
(*) Application fee for approval of a continuing education course	\$35.00
(j) Application fee for approval of a	

continuing education course	\$35.00
(I) Fee for certification of a statement that a licensee is licensed in this state	\$5.00
(K) Fee for certification of a statement that a licensee is licensed in this state	\$5.00
(M) Fee for a duplicate original license	\$5.00
(L) Fee for a duplicate original license	\$5.00

Sec. 76. That section 71-6065, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6065. (1) There is hereby created, under the supervision of the department, the Board of Examiners in Nursing Home Administration which shall consist of the Director of Health or his or her designated representative, the Director of Social Services or his or her designated representative, the Director on Aging or his or her designated representative, and the following members appointed by the State Board of Health: (a) Two members who hold active licenses and are currently employed in the management, operation, or ownership of proprietary homes for the aged or infirm or nursing homes that serve the aged or infirm in Nebraska; (b) two members who hold active licenses and are currently employed in the management or operation of a nonprofit home for the aged or infirm or nursing home or hospital caring for chronically ill or infirm, aged patients; (c) one member who is a member of the faculty of a college or university located in the state who is actively engaged in a teaching program relating to business administration, social work, gerontology, or some other aspect of the administration of health care facilities; (d) one member who is a licensed physician and surgeon with a demonstrated interest in long-term care; and (e) one member who is a licensed registered professional nurse; and (f) two members who are laypersons, at least the age of majority, residents of this state for at least five years preceding appointment, and representative of consumer viewpoints. The members of the board shall serve as members of such board until the expiration of their respective terms or until their successors have been appointed and qualified. Each appointed member who is an administrator shall be licensed pursuant to sections 71-6053 to 71-6068.

(2) The appointed members shall be appointed for terms of three years, and the terms shall be staggered so that the terms of ~~two~~ three appointed members of the board expire each year. The term of each member shall commence on the first day of December following the expiration of the term of the member whom such person succeeds. A vacancy in any appointive position on the board shall be filled for the unexpired portion of the term by appointment by the State Board of Health in the same manner as original appointments are made. Appointed members shall serve until their successors are appointed and qualified.

(3) The State Board of Health shall have power to remove from office at any time any member of the board after a public hearing pursuant to the Administrative Procedure Act for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a license may be suspended or revoked, or for a lack of licensure.

(4) The department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 77. That section 71-6113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6113. (1) Licenses issued under the Occupational Therapy Practice Act shall be subject to biennial renewal and shall expire August 1 of each even-numbered year ~~beginning in 1986~~ unless renewed in the manner provided by section 71-110 upon the payment of the renewal fee prescribed in section 71-6114.

(2) A licensee whose license is revoked for nonpayment of the biennial renewal fee ~~as provided in section 71-110~~ may be reinstated upon the recommendation of the board and the payment of the reinstatement and renewal fees prescribed in section 71-6114 ~~and an additional fee as prescribed in subsection (5) or (6) of section 71-110~~, except that no reinstatement of a license may be granted more than five years after its expiration.

Sec. 78. That section 71-6114, Revised Statutes Supplement, 1992, be amended to read as follows:

71-6114. (1) The department shall establish and collect the following fees:

(a) For initial licensure, an amount not less than one hundred and not more than four hundred dollars;

(b) For renewal of license, an amount not less than one hundred and

not more than ~~four~~ five hundred dollars;

(c) For reinstatement of license, ten dollars;

(d) For a temporary permit, an amount not less than twenty-five dollars and not more than one hundred dollars;

(e) For a certified statement that a licensee is licensed in this state, a fee of twenty-five dollars, and for verification that a licensee is licensed in this state, a fee of five dollars; and

(f) For a duplicate license, ten dollars.

(2) Any applicant whose application is rejected by the department or withdrawn by the applicant shall be allowed the return of his or her fee except for an administrative fee of twenty-five dollars to be retained by the department.

Sec. 79. That section 71-7423, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7423. A wholesale drug distributor license may be denied, refused renewal, suspended, limited, or revoked by the Director of Health when the director finds that the licensee has violated any provisions of the Wholesale Drug Distributor Licensing Act or of the rules and regulations adopted under the act or has committed any acts or offenses set forth in section 71-147 or 71-148. ~~Disciplinary~~ All actions and proceedings shall be carried out as specified in sections 71-147 to 71-161.19.

For purposes of this section, licensee shall include, but not be limited to, the board of directors, chief executive officer, and other officers of the applicant or the entity to which the license is issued and the manager of each site if more than one site is located in this state.

Sec. 80. Sections ~~80~~ 80 to ~~85~~ 85 of this act shall be known and may be cited as the Nebraska Trauma Systems Development Act.

Sec. 81. The Legislature finds that trauma is recognized as the leading killer of persons from one to forty-four years of age and is a serious yet preventable disease. The State of Nebraska incurs a massive expense from trauma in lives lost and productive years destroyed. The experience of other states has shown that a comprehensive trauma system, including all phases of trauma care, such as education, prevention, prehospital care, trauma center designation, and rehabilitative care, can vastly improve outcome.

It is the intent of the Nebraska Trauma Systems Development Act to designate the Department of Health to be responsible for the coordination and integration of all state activities concerning complete trauma care system organization and functioning. It is also the intent of the act to provide for the planning and development of prompt, efficient, and effective emergency trauma care, a well-coordinated trauma care system, effective communication between prehospital care providers and hospitals, and the safe handling and transportation of the sick and injured. Such system is intended to promote the public health, safety, and welfare by providing for the creation of a statewide trauma care system with standards for all providers of trauma services.

Sec. 82. For purposes of the Nebraska Trauma Systems Development Act:

(1) Board shall mean the Nebraska Trauma Systems Development Board created by section 83 of this act;

(2) Department shall mean the Department of Health;

(3) Trauma shall mean a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability; and

(4) Trauma care system shall mean a part of the health care system from time of initial injury to appropriate level of care, rehabilitation, and functioning as a member of the community at the maximum level of wellness and shall include prevention.

Sec. 83. (1) There is hereby created the Nebraska Trauma Systems Development Board. The board shall be an advisory board to the department and shall consist of fifteen members who have a demonstrated interest in trauma care systems development. The board shall be appointed by the Director of Health and shall be broadly representative of trauma prevention and care providers and shall be from as geographically diverse regions as possible. The board shall be composed of two prehospital providers, two emergency medical physicians, two hospital administrators, and two surgeons. One member from each of such categories shall be from a rural area, and one member from each of such categories shall be from an urban area. The board shall also be composed of one physician board-certified in physical medicine and rehabilitation, one registered nurse involved in rehabilitation, including speech therapy, occupational therapy, or physical therapy, one person involved in prevention education, two nurses active in trauma care, and two persons representing the public who have no affiliation with prehospital, hospital, or

rehabilitation services. The board shall terminate on January 1, 1996.

(2) The board shall elect a chairperson from its membership. Board members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 84. The board shall advise the department on the development of a trauma care system plan to carry out the purpose of the Nebraska Trauma Systems Development Act and shall work with the department to implement the plan.

Sec. 85. The department shall:

(1) Coordinate the planning and development of a trauma care system plan; and

(2) Present the plan to the Legislature and the Governor on or before November 1, 1994, for the development of the statewide trauma care system. The plan shall include, but not be limited to, designation of standards for trauma centers, trauma care systems management, development of a data collection system, standardized forms, and ways to improve trauma care and rehabilitation. The plan shall also include timelines for the development of each aspect of the plan and shall include all elements necessary for an effective trauma care system, including a trauma registry.

Sec. 86. That section 71-7501, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7501. Sections 71-7501 to 71-7521 and sections 88, 93 to 101, and 103 to 110 of this act shall be known and may be cited as the Community Public Health Services Care Act.

Sec. 87. That section 71-7502, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7502. (1) The Legislature finds that Nebraska's health care needs and strengths vary in different areas of the state and that, while a statewide effort is needed to meet the health care needs of Nebraskans and to support a statewide infrastructure, Nebraska's communities, on both an individual and a collective basis, are in the best situation to address local needs. The purpose of the Community Health Care Act is to provide a mechanism on a state level to support the needs of communities to meet their health care needs.

(2) The Legislature finds that one purpose of the Community Public Health Services Care Act is to authorize a delivery mechanism to provide community public health services statewide. The act is not intended to create an entitlement to any activities described in the act, and the Department of Health may perform the activities described in the act to the extent funds are available. The act is not intended to displace local public health departments currently in existence or to discourage the establishment of new local public health departments but rather to provide community public health services to individuals who do not have access to services from a local public health department. The Legislature believes that all individuals should have access to basic community public health services.

Sec. 88. It is the intent of the Legislature:

(1) That Nebraska be able to be innovative and creative in addressing its health care needs on a local basis and on a state basis;

(2) To the extent possible, to plan, design, and evaluate the health care delivery system at the local level and to involve representatives from all sections of the community, including public and private entities; and

(3) That state efforts in assessment, policy development, and quality assurance support the local communities in meeting their health care needs.

Sec. 89. That section 71-7503, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7503. For purposes of the Community Public Health Services Care Act, the definitions found in sections 71-7504 to 71-7515 and section 104 of this act may be used.

Sec. 90. That section 71-7514, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7514. Region shall mean a community public health services care region established under section 71-7516 under the operation of the department.

Sec. 91. That section 71-7516, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7516. There is hereby authorized the establishment of six or more hereby authorized to be established community public health services care regions. The director may determine the composition of such regions after facilitating a discussion among all areas of the state in order to determine a rational configuration of counties for each region. In establishing the lines of each region, the department may take into consideration current health care

delivery systems in the state, historical health care delivery patterns, business hubs, other human service regions in the state, communities of interest, and other relevant criteria. If established, the number and composition of each region shall be as follows:

(1) Region 1 shall consist of the counties of Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Banner, Morrill, Garden, Kimball, Cheyenne, and Deuel;

(2) Region 2 shall consist of the counties of Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson, Chase, Hayes, Frontier, Gosper, Bundy, Hitchcock, Red Willow, and Furnas;

(3) Region 3 shall consist of the counties of Blaine, Loup, Garfield, Wheeler, Guster, Valley, Greeley, Sherman, Howard, Merrick, Buffalo, Hall, Hamilton, Phelps, Kearney, Adams, Clay, Harlan, Franklin, Webster, and Nuckolls;

(4) Region 4 shall consist of the counties of Cherry, Keya Paha, Boyd, Brown, Rock, Holt, Knox, Cedar, Dixon, Dakota, Antelope, Pierce, Wayne, Thurston, Boone, Madison, Stanton, Cuming, Burt, Nance, Platte, and Goff;

(5) Region 5 shall consist of the counties of Polk, Butler, Saunders, York, Seward, Lancaster, Cass, Otoe, Fillmore, Saline, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson; and

(6) Region 6 shall consist of the counties of Bodge, Washington, Douglas, and Sarpy.

Sec. 92. That section 71-7517, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7517. The director may assign a core team to each region. The core team may provide community public health services to the region. Such services shall not duplicate existing health services being provided by public and private providers within the region. The determination of services to be provided shall be based on the core team's assessment of the public health needs of the region. Each service which the core team provides shall be accessible to all persons in a county or city within the region which is not already being provided the service by a local public health department. In addition, the role of the core team may be to:

(1) Coordinate and expand existing community public health services in order to minimize duplication of services and increase the efficiency and effectiveness of health services within the region;

(2) Support the goals of the regional health plan developed pursuant to section 71-7518 95 of this act;

(3) Assist the department in the provision of technical assistance and consultation to local public health departments;

(4) Assist the department in the provision of continuing education to local public health personnel; and

(5) Provide assistance and consultation to cities and counties within the region desiring to establish a local public health department pursuant to sections 71-1626 to 71-1636; and

(6) Carry out other duties provided in the Community Health Care Act.

The director may appoint a member of the core team to act as the service region director. In order to carry out this section, the department, acting on behalf of each region, may contract with local public health departments and other community agencies for a service.

Sec. 93. Each region may have a community health care regional board which may include at least one representative of each county in the region. Each board established shall include in as equal numbers as possible health care consumers, health care providers, and employers, including employers who are self-insured. Members of such boards shall be appointed by the director for staggered terms of three years. Members may be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 94. Each community health care regional board may, with the advice of the department, formulate the appropriate structure for the planning and oversight of the health care delivery networks or systems in the region. Such board shall include other entities as appropriate to ensure the comprehensiveness of the plan and the regional planning process.

Sec. 95. (1) Each community health care regional board may, with the assistance of the department, develop a regional plan which:

(a) Identifies (i) the health-care-related resources, facilities, and services within the region which are available to the citizens of the region, (ii) the health care needs of the region, (iii) ways to meet those needs, (iv) gaps in services, and (v) duplication of services; and

(b) Describes the community public health services made available by public and private providers within the region and proposes a plan addressing

deficiencies in community public health services which the core team may provide. The plan shall set priorities for carrying out the plan.

(2) The regional plan adopted pursuant to this section may be amended to incorporate a regional mental health plan. Such mental health plan shall be adopted after consultation with the mental health regions established pursuant to the Nebraska Comprehensive Community Mental Health Services Act. All public and private mental health service providers and facilities shall be included in the development of such plan. If a community health care region contains a regional center funded by the Department of Public Institutions, the regional center shall be included in such mental health plan.

Sec. 96. Each community health care regional board may:

(1) Make recommendations concerning applications under the Nebraska Health Care Certificate of Need Act which affect the delivery of health care services in the region. The recommendations shall be based on whether the application meets a need or needs as provided by the regional plan described in section 95 of this act;

(2) Make recommendations to the director concerning waiver of rules and regulations concerning facility licensure, staffing, scope of practice, or supervision;

(3) Make recommendations to the director concerning voluntary agreements between providers in the region which will improve quality and affordability of and access to health care but which might constitute a violation of antitrust laws if undertaken without government direction;

(4) Undertake activities to educate consumers, providers and purchasers of health care services and to promote voluntary, cooperative community cost containment, access, or quality-of-care projects; and

(5) Make recommendations to the director regarding ways of improving affordability, accessibility, and quality of health care in the region and throughout the state.

Sec. 97. Each community health care regional board may establish one or more advisory groups to assist in the development of the regional plan described in section 95 of this act. Such advisory group may be comprised of county board members, city council members, mayors, local public health department staff members, local board of health members, health care providers, and other persons interested in the health of persons living in the region. Citizens may form an advisory group and may represent an area within a region which may include areas outside but contiguous to the region.

Sec. 98. The regional plan described in section 95 of this act shall be adopted by a majority vote of the members of the community health care regional board and submitted to the department.

Sec. 99. The director may incorporate the provisions of each regional plan described in section 95 of this act into a state health plan.

Sec. 100. The director may provide technical assistance to each community health care regional board to assist the board in the development of the regional plan described in section 95 of this act. Such technical assistance may include health-care-related data, demographic data, and other assistance as determined to be necessary.

Sec. 101. The director shall report to the Legislature by January 1, 1995, regarding the progress being made within each region with respect to the establishment of a regional coordinating organization and the development of a regional plan under section 95 of this act. The director's report shall also include the issues, if any, raised during the planning process and request any appropriate legislative action that would further the purposes of the Community Health Care Act.

Sec. 102. That section 71-7521, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7521. The department may (1) charge and receive fees, (2) accept third-party reimbursements or matching funds from any federal governmental agency, private corporation, or other public or private organization or entity, and (3) accept grants or donations from any public or private agency, organization, or entity for services provided by any region. Such funds shall be remitted to the State Treasurer for credit to the Nebraska Health Care Trust Fund, which fund is hereby created. Money in the fund available for investment shall be invested by the state investment officer as provided in sections 72-1237 to 72-1276. The fund shall contain money appropriated by the Legislature to carry out the Community Health Care Act and any other money directed to the fund from any source. The director may allocate grants from the fund to carry out the purposes of the act.

Sec. 103. The purpose of the Community Health Care Act is to authorize a delivery mechanism to provide community public health services statewide. The act is not intended to create an entitlement to any activities described in the act, and the Department of Health may perform the activities

described in the act to the extent funds are available. The act is not intended to displace local public health departments currently in existence or to discourage the establishment of new local public health departments but rather to provide community public health services to individuals who do not have access to services from a local public health department. The Legislature believes that all individuals should have access to basic community public health services.

Sec. 104. Region shall mean a community public health services region under the operation of the department.

Sec. 105. There is hereby authorized the establishment of six community public health services regions. If established, the number and composition of each region shall be as follows:

(1) Region 1 shall consist of the counties of Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Banner, Morrill, Garden, Kimball, Cheyenne, and Deuel;

(2) Region 2 shall consist of the counties of Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and Furnas;

(3) Region 3 shall consist of the counties of Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Sherman, Howard, Merrick, Buffalo, Hall, Hamilton, Phelps, Kearney, Adams, Clay, Harlan, Franklin, Webster, and Nuckolls;

(4) Region 4 shall consist of the counties of Cherry, Keya Paha, Boyd, Brown, Rock, Holt, Knox, Cedar, Dixon, Dakota, Antelope, Pierce, Wayne, Thurston, Boone, Madison, Stanton, Cuming, Burt, Nance, Platte, and Colfax;

(5) Region 5 shall consist of the counties of Polk, Butler, Saunders, York, Seward, Lancaster, Cass, Otoe, Fillmore, Saline, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson; and

(6) Region 6 shall consist of the counties of Dodge, Washington, Douglas, and Sarpy.

Sec. 106. The director may assign a core team to each region. The core team may provide community public health services to the region. Such services shall not duplicate existing health services being provided by public and private providers within the region. The determination of services to be provided shall be based on the core team's assessment of the public health needs of the region. Each service which the core team provides shall be accessible to all persons in a county or city within the region which is not already being provided the service by a local public health department. In addition, the role of the core team may be to:

(1) Coordinate and expand existing community public health services in order to minimize duplication of services and increase the efficiency and effectiveness of health services within the region;

(2) Support the goals of the regional health plan developed pursuant to section 107 of this act;

(3) Assist the department in the provision of technical assistance and consultation to local public health departments;

(4) Assist the department in the provision of continuing education to local public health personnel; and

(5) Provide assistance and consultation to cities and counties within the region desiring to establish a local public health department pursuant to sections 71-1626 to 71-1636.

The director may appoint a member of the core team to act as the service region director. In order to carry out this section, the department, acting on behalf of each region, may contract with local public health departments and other community agencies for a service.

Sec. 107. Each service region director, in consultation with the local public health departments and other health care providers in the region, may develop a regional health plan that assesses the public health needs of the region. The plan shall describe the community public health services made available by public and private providers within the region and propose a health plan addressing deficiencies in community public health services which the core team shall provide over a two-year period. Each service region director shall submit his or her regional health plan, if developed, to the director for evaluation and approval on or before January 1 every two years. Within thirty days of receiving the regional health plans, the director shall submit a report to the Legislature and the Governor consisting of the six regional health plans and a summary and evaluation by the director.

Sec. 108. (1) To assist the core team in carrying out its purposes and functions, a community public health services region advisory council may be created within each region. If an advisory council is created, members shall be appointed by the director. The advisory council shall be comprised of county board members, city council members, mayors, local public health

department staff members, local board of health members, medical society members, community action agency representatives, dental association members, and other persons interested in the health of persons living in the region. County representation on the advisory council shall be made on the basis of each county's population in relation to the total population of the region. No county in any region shall be represented by less than one person on the advisory council for such region. The size of each advisory council shall be determined by the director.

(2) Members of each advisory council shall serve for terms of three years, except that of the members initially appointed, one-third shall be appointed for terms of one year, one-third shall be appointed for terms of two years, and one-third shall be appointed for terms of three years as the director shall designate. As the terms of the initial appointees to each advisory council expire, succeeding appointees shall be appointed to three-year terms. A person appointed to fill a vacancy occurring during an unexpired term shall serve out the term of his or her predecessor. Members may serve no more than two consecutive three-year terms.

(3) Each advisory council shall meet at least once each quarter to review the operation, administration, and programs of the region and to make any recommendations to the service region director for improvements considered to be reasonable or necessary.

(4) The members of each advisory council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 109. The department may (1) charge and receive fees, (2) accept third-party reimbursements or matching funds from any federal governmental agency, private corporation, or other public or private organization or entity, and (3) accept grants or donations from any public or private agency, organization, or entity for services provided by any region. Such funds shall be remitted to the State Treasurer for credit to the Nebraska Health Care Trust Fund, which fund is hereby created. Money in the fund available for investment shall be invested by the state investment officer as provided in sections 72-1237 to 72-1276.

Sec. 110. Sections 71-7502, 71-7514, 71-7516, 71-7517, and 71-7521 and sections 88 and 93 to 101 of this act shall terminate on July 1, 1998.

Sec. 111. Sections 111 to 121 of this act shall be known and may be cited as the Health Care Facility-Provider Cooperation Act.

Sec. 112. For purposes of the Health Care Facility-Provider Cooperation Act:

(1) Community planning shall mean a plan which identifies (a) health-care-related resources, facilities, and services within the community, (b) the health care needs of the community, (c) gaps in services, (d) duplication of services, and (e) ways to meet health care needs;

(2) Cooperative agreement shall mean an agreement among two or more health care facilities or other providers for the sharing, allocation, or referral of patients, personnel, instructional programs, equipment, support services and facilities, or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered or purchased by health care facilities or other providers;

(3) Department shall mean the Department of Health;

(4) Health care facility shall mean:

(a) Any facility required to be licensed under sections 71-2017 to 71-2029 or, if in another state, licensed in such state; and

(b) Any parent of a health care facility, health care facility subsidiary, or health care facility affiliate that provides medical or medically related diagnostic and laboratory services or engages in ancillary activities supporting those services; and

(5) Provider shall mean any person licensed to provide health care services under Chapter 71 and engaged in the practice of medicine and surgery, osteopathic medicine, pharmacy, optometry, podiatry, physical therapy, or nursing.

Sec. 113. Parties to a cooperative agreement may apply to the department for a certificate of public advantage governing the cooperative agreement. The application shall include an executed letter of intent signed by the parties indicating the parties' intent to proceed with a cooperative agreement if the department issues a certificate of public advantage and shall also include a narrative description of the proposed agreement, the nature and scope of the cooperation in the proposed agreement, and any consideration passing to any party under the proposed agreement. A copy of the application and copies of all additional related materials shall be submitted to the Attorney General and to the department at the same time.

Sec. 114. (1) Within five working days after receipt of an

application for a certificate of public advantage, the department shall publish notice of the application through public channels and shall notify health care facilities providing similar services in the area affected by the proposal and any person who has requested such notice. The notice shall state that an application has been received, describe the proposal, and state the date by which a person may submit written comments about the application to the department.

(2) The department shall, within fifteen days after the date an application is received, determine if the application is complete for the purposes of review. The department may find that an application is incomplete when a question on the application form has not been answered in whole or in part or has been answered in a manner that does not fairly meet the question addressed or when the application does not include attachments of supporting documents necessary to complete the answer. If the department determines that an application is incomplete, it shall notify the applicant within fifteen days after the date the application was received, stating the reasons for its determination of incompleteness with reference to the particular questions for which a deficiency is noted.

(3) The department may, during the course of its review, hold a public meeting at which any person may introduce testimony and exhibits in connection with an application. The department decision to hold a public meeting shall be made within fifteen days after the department's dissemination of notice pursuant to subsection (1) of this section. The meeting shall be held no later than thirty days after the department's decision to hold a public meeting and upon five days notice, not including days the application is deemed to be incomplete.

(4) The department shall review the application in accordance with the standards set forth in section 116 of this act and may hold a public hearing in accordance with rules and regulations of the department. Persons may intervene if any legal rights, duties, privileges, or other legal interests may be substantially affected by the application. The department may adopt and promulgate rules and regulations for such intervention. The department shall consult with the Attorney General regarding his or her evaluation of any potential reduction in competition resulting from a cooperative agreement.

Sec. 115. (1) The department shall grant or deny an application for a certificate of public advantage within ninety days after the date of filing of the application, not including days the application is deemed to be incomplete. The decision shall be in writing and set forth the basis for the decision. The department shall furnish a copy of the decision to the applicants, the Attorney General, and any intervenor.

(2) If the department grants the application, the parties shall have forty-five days after the date of receipt of the department's decision to submit an executed written copy of the cooperative agreement which shall be in accordance with the terms and conditions set out in the letter of intent and the application. The department shall review the executed written copy of the cooperative agreement and, if it is in accordance with the terms and conditions set out in the letter of intent and the application, the department shall issue a certificate of public advantage for the cooperative agreement.

(3) If the applicants desire to contest the denial of an application, they shall, within ten days after receipt of the notice of denial, send a written request to the department for a hearing under sections 84-913 and 84-915.

(4) A denial by the department of an application or a termination of a certificate of public advantage under section 117 of this act may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 116. (1) The department shall issue a certificate of public advantage for a cooperative agreement if it determines that the applicants have demonstrated by clear and convincing evidence that the likely benefits resulting from the agreement outweigh any disadvantages attributable to a reduction in competition that may result from the agreement.

(2) In evaluating the potential benefits of a cooperative agreement, the department shall consider whether one or more of the following benefits may result from the cooperative agreement:

(a) Enhancement of the quality of health care facility care and provider care provided to Nebraska citizens;

(b) Preservation of health care facilities, including those in other states, in geographical proximity to the communities traditionally served by such facilities;

(c) Gains in the cost efficiency of services provided by the health care facilities or providers involved or by other health care facilities or

providers in this state:

(d) Improvements in the utilization of health care facility resources and equipment;

(e) Avoidance of duplication of health care facility resources;

(f) Enhancement, maintenance, or preservation of competition for the services or goods involved; and

(g) Mitigation of adverse environmental impact or enhancement of positive environmental impact.

(3) The department's evaluation of any disadvantages attributable to any reduction in competition likely to result from the agreement may include, but need not be limited to, the following factors:

(a) The extent of any likely adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed health care service agents, or other health care payors to negotiate advantageous payment and service arrangements with health care facilities or providers;

(b) The extent of any reduction in competition among health care facilities or providers or other persons furnishing goods or services to or in competition with health care facilities that is likely to result directly or indirectly from the cooperative agreement;

(c) The extent of any likely adverse impact on patients in the quality, availability, and price of health care services; and

(d) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the agreement.

Sec. 117. If the department determines at any time that the likely benefits resulting from a certified cooperative agreement no longer outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement, the department shall initiate proceedings to terminate the certificate of public advantage in accordance with the Administrative Procedure Act.

Sec. 118. (1) The department shall require the parties to a cooperative agreement for which a certificate of public advantage has been issued to report annually on the functioning of the cooperative agreement for the preceding year. The report shall be in such form and contain such information as the department in its discretion deems necessary to make the determination required by section 117 of this act.

(2) Any interested person may petition the department to determine that the likely benefits resulting from a certified cooperative agreement no longer outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement. In such case, the department may initiate proceedings to terminate the certificate of public advantage in accordance with the Administrative Procedure Act.

(3) It shall be unlawful for an employer to take any adverse job action against any employee because such employee has petitioned, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under the Health Care Facility-Provider Cooperation Act.

Sec. 119. (1) Any party to a cooperative agreement which has been approved in whole or in part by the department pursuant to the Health Care Facility-Provider Cooperation Act shall be immune from any civil or criminal antitrust action if such action is based upon the cooperative agreement or arises from conduct or activity reasonably necessary and reasonably foreseeable to implement such agreement or any decision or order issued by the department.

(2) Any party to a cooperative agreement that has been filed with the department pursuant to the act shall be immune from any civil or criminal antitrust action if such action is based upon or arises from the negotiation of or entering into the cooperative agreement.

(3) All persons who participate in community planning, discussions, or negotiations intended in good faith to culminate in a cooperative agreement to be filed with the department pursuant to the provisions of the act shall be immune from any civil or criminal antitrust action if such action is based upon or arises from such conduct.

(4)(a) The immunity provided in this section shall apply only to community planning, discussions, and negotiations that occur after notice of such activities has been sent to the department in accordance with the requirements of subdivision (b) of this subsection.

(b) The notice to the department required by subdivision (a) of this subsection shall include a description of the proposed purpose of the agreement, the potential parties, and the potential nature and scope of the cooperation and joint activities contemplated. The persons filing such notice shall also notify the department if negotiations have terminated, or if

negotiations are continuing they shall notify the department of progress of negotiation at least once every six months. The department may request additional information from the potential parties and may communicate with and monitor the parties in any manner the department deems necessary but shall not hinder or interfere with negotiations.

(5) The submission of a cooperative agreement for department approval pursuant to the act shall be voluntary, and the failure of the parties to any such agreement to seek approval shall not be admissible in any civil or criminal antitrust action if such action is based upon the cooperative agreement or arises from conduct or activity reasonably necessary and reasonably foreseeable to implement the cooperative agreement.

(6) Nothing in the act shall be construed to limit the application of any other statute concerning the licensure of facilities, services, or professions, and any activities undertaken pursuant to a cooperative agreement shall comply with applicable law.

Sec. 120. Nothing in the Health Care Facility-Provider Cooperation Act shall be construed to prohibit:

(1) The formation of a cooperative agreement that has been approved in whole or in part in accordance with the act;

(2) Community planning, discussions, or negotiations intended in good faith to cumulate in a cooperative agreement to be filed with the department;

(3) Any conduct or activity reasonably necessary and reasonably foreseeable to implement an approved cooperative agreement or a decision or order issued by the department; or

(4) The negotiation of or entering into a cooperative agreement which is filed with the department. Such agreements, conduct, or activities shall not be held or construed to be illegal combinations or conspiracies in restraint of trade under the act. Directors, trustees, or their representatives of a health care facility or provider who participate in the discussion or negotiation shall be immune from civil actions or criminal prosecutions for a violation of state or federal antitrust laws unless the discussion or negotiation exceeds the scope authorized by the Health Care Facility-Provider Cooperation Act.

Sec. 121. The department shall maintain on file a copy of all cooperative agreements for which certificates of public advantage remain in effect. Any party to a cooperative agreement who terminates the agreement shall file a notice of termination with the department within thirty days after termination.

Sec. 122. The Department of Health shall establish a health care data analysis section to conduct data and research initiatives in order to improve the efficiency and effectiveness of health care in Nebraska.

Sec. 123. The Department of Health, through the health care data analysis section, shall:

(1) Conduct research using existing health care data bases and promote applications based on existing research;

(2) Work closely with health plans and health care providers to promote improvements in health care efficiency and effectiveness;

(3) Participate as a partner or sponsor of private-sector initiatives that promote applied research on health care delivery, outcomes, costs, quality, and management; and

(4) Provide technical assistance as needed.

Sec. 124. Data and research initiatives by the health care data analysis section of the Department of Health shall:

(1) Promote applied research on health care delivery, outcomes, costs, quality, and management;

(2) Conduct research and promote health care applications based on scientifically sound and statistically valid methods;

(3) Emphasize data that is useful and relevant and is not redundant of existing data;

(4) Be structured to minimize the administrative burden on health plans, health care providers, and the health care delivery system; and

(5) Promote continuous improvement in the efficiency and effectiveness of health care delivery.

Sec. 125. Data and research initiatives by the health care data analysis section of the Department of Health related to public-sector health care programs shall:

(1) Assist the state's current health care financing and delivery programs to deliver and purchase health care in a manner that promotes improvements in health care efficiency and effectiveness;

(2) Assist the state in its public health activities, including the analysis of disease prevalence and trends and the development of public health

responses:

(3) Assist the state in developing and refining its overall health policy, including policy related to health care costs, quality, and access; and

(4) Provide health care information that allows the evaluation of state health care financing and delivery programs.

Sec. 126. (1) To carry out the duties assigned under sections 123 to 125 of this act, the Department of Health may contract with or provide grants to private sector entities.

(2) The health care data analysis section of the Department of Health shall negotiate with private-sector organizations currently collecting data on specific health conditions of interest to the section in order to obtain required data in a cost-effective manner and minimize administrative costs. The section shall support linkages between existing private-sector data bases and shall consider and implement methods to streamline data collection in order to reduce public-sector and private-sector administrative costs.

(3) The health care data analysis section shall use existing public-sector data bases, such as those existing for the medical assistance program and medicare, to the greatest extent possible. The section shall support linkages between existing public-sector data bases and consider and implement methods to streamline public-sector data collection in order to reduce public-sector and private-sector administrative costs.

Sec. 127. The Director of Health shall annually report to the Governor and the Legislature on the status of health care expenditures in Nebraska. Such report shall also address the access of Nebraskans to health care services, issues related to quality assurance, differences in the health care status of persons in different parts of Nebraska, changes needed in the education of health care personnel in Nebraska, and recommendations for improvements in the health care delivery system generally.

Sec. 128. That section 79-444.01, Revised Statutes Supplement, 1993, be amended to read as follows:

79-444.01. Except as provided in sections 79-444.06 to 79-444.08 and 79-444.07, each board of education and the governing authority of each school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to enrollment, and any student who does not comply with this section shall not be permitted to continue in school until he or she shall so comply except as provided by section 79-444.07. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

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

Sec. 129. That section 79-444.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-444.03. The Department of Health shall adopt and promulgate rules and regulations relating to the required levels of protection, provisional enrollment under the provisions of section 79-444.07, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The department may modify, add to, or delete from the list of required immunizations set out in section 79-444.01. The Department of Health department shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of sections 79-444, 79-444.01, and 79-444.03 to 79-444.05 79-444 to 79-444.07.

Sec. 130. That section 79-444.07, Revised Statutes Supplement, 1993, be amended to read as follows:

79-444.07. (1) A student may be provisionally enrolled in a school in Nebraska if he or she has begun the immunizations required under section 79-444.01 and continues to receive the necessary immunizations as rapidly as is medically feasible meets either of the following qualifications:

(a) The student has begun the immunizations required under section 79-444.01 and is receiving the necessary immunizations as rapidly as is medically feasible; or

(b) The student is the child or legal ward of an officer or enlisted person on active duty in any branch of the military services of the United States or of his or her spouse, enrolling in a Nebraska school following residence in another state or in a foreign country.

(2) As a condition for the provisional enrollment of a student qualified for such enrollment under subdivision (1)(b) of this section, a

parent or adult legal guardian of the student shall provide the school with a signed written statement certifying that the student has completed the course of immunizations required by section 79-444.01.

(3) The provisional enrollment of a student qualified for such enrollment under subdivision (1)(b) of this section shall not continue beyond sixty days from the date of such enrollment. At such time the school shall be provided, with regard to the student, written evidence of compliance with section 79-444.01. The student shall not be permitted to continue in school until such evidence of compliance is provided.

Sec. 131. (1) For purposes of this section, health care payor shall include, but not be limited to:

(a) An insurer;

(b) A health maintenance organization;

(c) Medicare or medicaid;

(d) A legal entity which is self-insured and provides health care benefits for its employees; or

(e) A person responsible for administering the payment of health care expenses for another person or entity.

(2) Any health care payor or employee thereof who has reasonable cause to believe that there has been a violation of section 71-147 or 71-148 or a fraudulent insurance act as defined in subdivision (1) of section 44-3.132 may discuss or inquire of other health care payors about such violation or act. Any health care payor or employee so discussing or inquiring or responding to such an inquiry from another health care payor shall be immune from criminal penalty or from civil liability for slander, libel, defamation, or breach of the physician-patient privilege if the discussion, inquiry, or response is made in good faith without reckless disregard for the truth.

Sec. 132. Sections 2 to 5, 9, 74, and 133 of this act shall become operative on September 1, 1994. Sections 32 and 134 of this act shall become operative on October 1, 1994. Sections 103 to 110 shall become operative on July 1, 1998. The other sections of this act shall become operative on their effective date.

Sec. 133. That original sections 71-101, 71-110, 71-113, 71-116, 71-162, and 71-6054, Revised Statutes Supplement, 1993, are repealed.

Sec. 134. That original section 71-529, Revised Statutes Supplement, 1992, is repealed.

Sec. 135. That original sections 44-2835, 71-1,132.08, 71-1,132.20, 71-1,132.49, 71-1,198, 71-1,199, 71-374, 71-375, 71-397, 71-1626 to 71-1629, 71-1629.02, 71-1630, 71-4711, 71-5504, 71-5829, 71-6065, 71-6113, and 79-444.03, Reissue Revised Statutes of Nebraska, 1943, sections 71-155, 71-161.03, 71-168, 71-172.01, 71-1,104, 71-1,200, 71-1,202, 71-382, 71-3,171, 71-527, 71-528, 71-1629.01, 71-3401, 71-3402, 71-3708, 71-3710, 71-4712, 71-5505, 71-5652, 71-5653, 71-5659, 71-5661 to 71-5666, 71-5669, 71-6061, 71-6114, 71-7423, 71-7501, 71-7502, 71-7503, 71-7514, 71-7516, 71-7517, and 71-7521, Revised Statutes Supplement, 1992, and sections 71-147, 71-168.01, 71-1,132.07, 71-1,204, 71-1331, 71-1757, 71-2023, 71-3706, 71-3707, 71-4715, 71-5668, 71-5674, 71-5676, 71-5677, 79-444.01, and 79-444.07, Revised Statutes Supplement, 1993, and also sections 44-2848 to 44-2850, 44-2852, and 44-2853, Reissue Revised Statutes of Nebraska, 1943, sections 44-2851, 71-7518, and 71-7519, Revised Statutes Supplement, 1992, and section 79-444.08, Revised Statutes Supplement, 1993, are repealed.

Sec. 136. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.