

## LEGISLATIVE BILL 669

Approved by the Governor June 10, 1993

Introduced by Bernard-Stevens, 42; Wesely, 26

AN ACT relating to mental health practitioners; to amend sections 71-102, 71-107, 71-110, 71-112, 71-113, 71-114, 71-116, 71-1,207, 71-1,248 to 71-1,252, 71-1,255, 71-1,256, 71-1,258, 71-1,260, 71-1,261, 71-1,263, 71-1,264, 71-1,266, 71-1,267, 71-1,269, 71-1,270, 71-1,273, 71-1,275, and 71-1,277, Reissue Revised Statutes of Nebraska, 1943, and sections 33-150, 71-101, 71-131, 71-162, 71-2017.01, and 71-6054, Revised Statutes Supplement, 1992; to require licensure of mental health practitioners; to provide for certification of certain specialties; to define and redefine terms; to create a board, committees, and a fund; to require fees; to provide powers and duties; to provide a penalty; to eliminate certain provisions relating to social workers and professional counselors; to eliminate boards and funds; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original sections, and also sections 71-1,244 to 71-1,247, 71-1,253, 71-1,254, 71-1,257, 71-1,259, 71-1,262, 71-1,265, 71-1,268, 71-1,271, and 71-1,274, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 33-150, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

Sec. 2. That section 71-101, Revised Statutes Supplement, 1992, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,294, 71-1325 to 71-1354, and 71-2801 to 71-2822 and sections 11 and 14 to 57 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 the masculine gender is used, it shall be construed to include 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 71-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

obtained a license from the Department of Health for that purpose.

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

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

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

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

Sec. 4. That section 71-107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-107. Every person licensed or certified under the Uniform Licensing Law to practice a profession shall keep such license or certificate displayed in the office or place in which he or she practices and place and keep placed, in a conspicuous place at each entrance thereto, a sign, in intelligible lettering not less than one inch in height, containing the name of such person immediately followed by the recognized abbreviation indicating the professional degree, if any, held by such person. In addition to the foregoing, those persons licensed or certified to practice osteopathic medicine, chiropractic, podiatry, optometry, audiology, speech-language pathology, dietetic and nutrition services, professional counseling, social work, marriage and family therapy, mental health practice, massage therapy, or physical therapy shall cause to be placed upon such signs, in lettering of equal height, the word Osteopathic Physician, Chiropractor, Podiatrist, Optometrist, Audiologist, Speech-Language Pathologist, Nutritionist, Professional Counselor, Social Worker, Master Social Worker, Marriage and Family Therapist, Mental Health Practitioner, Massage Therapist, or Physical Therapist, as the case may be. The same wording shall be used in all signs, announcements, stationery, and advertisements of such licensees and certificate holders except as provided in section 26 of this act.

Sec. 5. That section 71-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

- (a) January, pharmacy and psychology;
- (b) February, embalming and funeral directing;
- (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; and professional counseling;

(i) October, medicine and surgery; ~~and social work;~~

(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 if an application for reinstatement is made within one year of revocation.

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

Sec. 6. That section 71-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

Sec. 7. That section 71-113, Reissue Revised Statutes of Nebraska, 1943, 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 members, including one layperson, (c) in medicine and surgery the board shall consist of seven members, including one layperson, (d) in pharmacy

the board shall consist of five members, including one ~~lay member layperson, and~~ (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 Social Work shall consist of two certified master social workers, one certified social worker, and one layperson. One of the professional examiners shall also be a member of a racial or cultural minority.~~

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

~~(5) Membership on the Board of Examiners in Professional Counseling shall consist of three certified professional counselors and one layperson.~~

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

~~(7) (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.~~

(8) (6) Two of the seven professional members of the Board of Examiners in Dentistry shall be officials or members of the instructional staff of an accredited school or college of dentistry in this state.

(9) (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. 8. That section 71-114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-114. (1) Except as provided in subsections (4)<sub>1</sub> and (6), and (7) of this section, every professional member of a board of examiners shall be and have been actively engaged in the practice of his or her profession in the State of Nebraska, under a license or certificate issued in this state, for a period of five years just preceding his or her appointment, except for the members of boards of examiners for

professions coming within the scope of the Uniform Licensing Law for the first time and for a period of five years thereafter. Members appointed during such period shall be required to meet the minimum qualifications for licensure in the profession in this state and shall, insofar as possible, meet the requirements as to years of practice in this state otherwise provided by this section.

(2) A ~~lay~~ layperson member of a board of examiners shall be of the age of legal majority and shall have been a resident of the State of Nebraska for at least five years immediately prior to appointment to the board. Such a ~~lay~~ layperson member shall be a representative of consumer viewpoints.

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

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

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

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

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

Sec. 9. That section 71-116, Reissue Revised Statutes of Nebraska, 1943, 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 ~~a term~~ 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 ~~a term~~ terms of five years; as of December 1, 1979, one member who is a duly licensed dental hygienist and complies with section 71-114 shall be appointed for a term of five years; and as of December 1, 1984, one ~~lay~~ layperson member shall be appointed for a term 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 ~~lay~~ layperson member 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 ~~lay~~ 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 ~~lay~~ 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 ~~lay~~ 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 ~~lay~~ layperson member shall be appointed on December 1, 1988, for a term of five years. Upon the expiration of the ~~lay~~ layperson member's term, each subsequent ~~lay~~ 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 the operative date of this section, 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 the operative date of this section, and one initial layperson member and one initial marriage and family therapist shall hold office until December 1 of the fifth year following the operative date of this section.

(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) ~~(9)~~ 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 ~~lay~~ 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. 10. That section 71-131, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

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

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

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

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

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

(3) In social work, the passing criterion for such examination shall be established and may be changed by the Board of Examiners in ~~Social Work~~ Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all the requirements for certification without examination pursuant to ~~section 71-1,260~~ 38 of this act or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(4) In professional counseling, the passing criterion for such examination shall be established and may be changed by the Board of Examiners in ~~Professional Counseling~~ Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to ~~section 71-1,271~~ or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(5) In marriage and family therapy, the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Mental Health Practice by rule and regulation. The

board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to section 48 of this act or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(6) In medicine and surgery, applicants taking the examination for the first time for licensure in this state in medicine and surgery or osteopathic medicine and surgery shall take the entire examination in one administration period. No applicant may retake any separate component of or the entire examination for licensure more than three times without first providing documentation of successful completion of one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. No more than seven years shall lapse between initial examination of an applicant and successful completion by an applicant of all components of the examination for licensure in medicine and surgery or osteopathic medicine and surgery. A passing grade or score for a component shall become invalid at the end of a period of seven years.

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

Sec. 11. When issuing, without examination, a license as a mental health practitioner or a certification in social work, professional counseling, or marriage and family therapy pursuant to section 71-139, the department may issue such license or certification regardless of the title used by the other state, the territory, or the District of Columbia if the applicant provides satisfactory evidence that the requirements for licensure or certification meet or exceed those required by this state.

Sec. 12. That section 71-162, Revised Statutes Supplement, 1992, be amended to read as follows:

71-162. (1) The following fees shall be collected by the department and remitted to the State Treasurer; ~~as is now provided by law:~~

(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, embalming, funeral directing, massage therapy, optometry, pharmacy, physical therapy, podiatry, respiratory care, speech-language pathology, ~~or~~ 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 ~~one hundred~~ twenty-five dollars and not more than ~~three four~~ hundred dollars; ~~The fee for renewal of a certificate as a certified professional counselor shall be not less than one hundred dollars and not more than four hundred dollars. The fee for certification by reciprocity shall be not less than one hundred twenty five dollars and not more than three 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 ~~one hundred~~ twenty five dollars and not more than ~~three four~~ hundred dollars; ~~The fee for a certificate as a certified social worker shall be not less than one hundred dollars and not more than three hundred dollars. The fee for renewal of a certificate as a certified master social worker shall be not less than one hundred dollars and not more than four hundred dollars. The fee for renewal of a certificate as a certified social worker shall be not less than seventy five dollars and not more than four hundred dollars. The fee for certification by reciprocity shall be not less than one hundred dollars and not more than three 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 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;

(e) (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 hundred dollars. The fee for certification by reciprocity shall be not less than fifty dollars and not more than three hundred dollars;

(h) (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 hundred dollars;

(h) (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

(j) (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. 13. That section 71-1,207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,207. ~~After January 1, 1968, no~~ No person may represent himself or herself to be a psychologist or engage in the practice of psychology unless he or she is licensed under ~~sections 71-101 to 71-1,196 and 71-1,206 to 71-1,221~~ the Uniform Licensing Law, except ~~that~~ nothing in sections 71-1,206 to 71-1,221 shall be construed to prevent:

(1) Qualified members of other professions such as, but not limited to, physicians, certified social workers, certified master social workers, certified professional counselors, certified marriage and family therapists, mental health practitioners, or pastoral counselors, from doing work of a psychological nature consistent with their training and consistent with the codes of ethics of their respective professions if they do not hold themselves out to the public by any title or description incorporating the words psychologist or psychology;

(2) The activities, services, and use of an official title on the part of a person in the employ of a federal, state, county, or municipal agency, or of other political subdivisions, or a duly chartered educational or charitable institution insofar as such activities and services are a part of the duties of his or her office or position with such agency or institution;

(3) The activities and services of a student, intern, or resident in psychology, pursuing a course of study at an accredited university or college, or working in a generally recognized training center, if these activities and services constitute a part of his or her supervised course of study;

(4) The activities and services of a person who is not a resident of this state and who has not established offices in this state, in rendering consulting psychological services when these activities and services are rendered for a period which does not exceed in the aggregate more than sixty days during any year if the person is authorized under the laws of the state or country of his or her residence to perform these activities and services, except ~~←PROVIDED,~~ that such person shall report to the board ~~the nature and extent of their~~ his or her practices in

this state if they exceed twenty days within any calendar year;

(5) The activities and services of a person for up to six months who has recently become a resident of the state and has had his or her application for licensing with or without examination accepted by the board, pending disposition of the application, if the person was authorized by the laws of the state or country, acceptable to the board, of his or her former residence to perform such activities and services;

(6)(a) Any individual certified as a school psychologist by the State Board of Education from using the title of school psychologist and offering the services of such under the regulatory authority of the State Board of Education. For purposes of this section, school psychologist shall mean a specialist certified by the State Board of Education who is authorized to provide the following services as an employee of any public school district or private, denominational, or parochial school or cooperative of such schools, any educational service unit, or any other school operated by the State of Nebraska:

(i) Consultation with school personnel, parents, students, and other specialists with regard to individual student needs or school program considerations;

(ii) Assessment of student learning and behavior;

(iii) Selection, administration, and interpretation of educational and psychological tests and test results;

(iv) Identification and verification of handicapped and gifted students; and

(v) Recommendation of student placement.

(b) Nothing in subdivision (6) of this section shall be construed to permit the employment of an unlicensed school psychologist other than by a public school district or a private, denominational, or parochial school or cooperative of such schools, any educational service unit, or any other school operated by the State of Nebraska; or

(7) A person engaged in psychological practice who is exempted from licensing requirements by virtue of his or her employment from offering lecture services for a fee.

Sec. 14. The Legislature finds that, because many mental health practitioners are not regulated in this state, anyone may offer mental health services by using an unrestricted title and that there is no means for identifying qualified practitioners, for enforcing professional standards, or for holding such practitioners accountable for their actions. Therefor the Legislature determines that, in the interest of consumer protection and for the protection of public health, safety, and welfare, individuals should be provided a means by which they can be assured that their selection of a mental health practitioner is based on sound criteria and that the activities of those persons who by any title may offer or deliver therapeutic mental health services should be regulated.

The purpose of licensing mental health practitioners is to provide for an omnibus title for such persons and to provide for associated certification of social workers, master social workers, professional counselors, and marriage and family therapists.

Sec. 15. For purposes of sections 14 to 57 of this act, the definitions found in sections 16 to 30 of this act shall be used.

Sec. 16. That section 71-1,255, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,255:~~ Approved educational program shall mean a program of ~~social work~~ education and training approved by the board. Such approval may be based on the program's accreditation by ~~the Council on Social Work Education or by an equivalent~~ an accrediting agency or on standards established by the board in the manner and form provided in section 71-128.

Sec. 17. Board shall mean the Board of Examiners in Mental Health Practice.

Sec. 18. Certified marriage and family therapist shall mean a person who is certified to practice marriage and family therapy pursuant to the Uniform Licensing Law and who holds a current certificate issued by the department.

Sec. 19. That section 71-1,249, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,249:~~ Certified master social work shall mean the specialized application of social work values, knowledge, principles, and methods in all areas of social work practice. Certified master social work may include the private, independent, and autonomous practice of social work.

Sec. 20. That section 71-1,251, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,251:~~ Certified master social worker shall mean a person who meets the standards established in subsection (1) of section ~~71-1,258~~ 38 of this act and who holds a current certificate issued by the department.

Sec. 21. Certified professional counselor shall mean a person who is certified to practice professional counseling pursuant to the Uniform Licensing Law and who holds a current certificate issued by the department.

Sec. 22. That section 71-1,250, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,250:~~ Certified social work shall mean the professional application of social work values, knowledge, principles, and methods in all areas of social work practice, except that certified social work shall not include private, independent, and autonomous practice of social work.

Sec. 23. That section 71-1,252, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,252:~~ Certified social worker shall mean a person who meets the standards established in subsection (2) of section ~~71-1,258~~ 38 of this act and who holds a current certificate issued by the department.

Sec. 24. Consultation shall mean a professional collaborative relationship between a licensed mental health practitioner

and a consultant who is a licensed clinical psychologist or a qualified physician in which (1) the consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant and (2) the consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

Sec. 25. Marriage and family therapy shall mean the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems through the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such disorders.

Sec. 26. Mental health practice shall mean the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

Mental health practice shall not include the practice of psychology or medicine, prescribing drugs or electroconvulsive therapy, treating physical disease, injury, or deformity, diagnosing major mental illness or disorder except in consultation with a qualified physician or licensed clinical psychologist, measuring personality or intelligence for the purpose of diagnosis or treatment planning, using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician or licensed clinical psychologist, or using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed clinical psychologist.

Mental health practice shall include the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

Nothing in sections 25, 29, and 30 of this act shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under sections 14 to 57 of this act but not licensed under section 33 of this act shall not engage in mental health practice.

Sec. 27. Mental health practitioner shall mean a person who holds himself or herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services. A person who is licensed as a mental health practitioner and certified as a master social worker may use the title licensed clinical social worker. A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title licensed professional counselor. A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title licensed



marriage and family therapist. No person shall use the title licensed clinical social worker, licensed professional counselor, or licensed marriage and family therapist unless he or she is licensed and certified as provided in this section.

A mental health practitioner shall not represent himself or herself as a physician or psychologist and shall not represent his or her services as being medical or psychological in nature.

Sec. 28. Mental health program shall mean an educational program in a field such as, but not limited to, social work, professional counseling, marriage and family therapy, human development, psychology, or family relations, the content of which contains an emphasis on therapeutic mental health and coursework in psychotherapy and the assessment of mental disorders.

Sec. 29. That section 71-1,266, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,266. As used in sections 71-1,265 to 71-1,277, unless the context otherwise requires:~~

~~(1) Board shall mean the Board of Examiners in Professional Counseling;~~

~~(2) Certified professional counselor shall mean a person who is certified to practice professional counseling pursuant to the Uniform Licensing Law and who holds a current certificate issued by the department pursuant to section 71-1,270;~~

~~(3) Department shall mean the Department of Health; and~~

~~(4) Professional counseling shall mean the offering or rendering of counseling services to assessment and treatment of mental and emotional disorders within the context of professional counseling theory and practice of individuals, couples, families, or groups for remuneration and shall include, but not be limited to:~~

~~(1) (a) Assisting individuals or groups through the counseling relationship to develop understanding, define goals, plan action, and change behavior with the goal of reflecting interests, abilities, aptitudes, and needs as they are related to personal and social concerns, educational progress, and occupations;~~

~~(2) (b) Appraisal activities which shall mean selecting, administering, scoring, and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, except that nothing in this subdivision shall be construed to authorize a certified professional counselor to engage in the practice of clinical psychology as defined in section 71-1,222;~~

~~(3) (c) Referral activities which evaluate data to identify which persons or groups may better be served by other specialists;~~

~~(4) (d) Research activities which shall mean reporting, designing, conducting, or consulting on research in counseling with human subjects;~~

~~(5) (e) Therapeutic, vocational, or personal rehabilitation in relationship to adapting to physical, emotional, or intellectual disability; and~~

(6) ~~(f)~~ Consulting on any activity listed in this section.

Sec. 30. That section 71-1,248, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,248.~~ (1) Social work practice or the practice of social work shall mean the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice:

(a) ~~(+)~~ Information, resource identification and development, and referral services;

(b) Preparation ~~(2) preparation~~ and evaluation of psychosocial assessments and development of social work service plans;

(c) Case ~~(3) case~~ management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;

(d) Development, ~~(4) development~~, implementation, and evaluation of social work programs and policies;

(e) Supportive contacts to assist individuals and groups with personal adjustment to crisis, transition, economic change, or a personal or family member's health condition, especially in the area of services given in hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, and correctional facilities. Nothing in this subdivision shall be construed to prevent charitable and religious organizations; the clergy; governmental agencies; hospitals; health clinics; home health agencies; schools; shelters for the homeless; shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence; nursing homes; or correctional facilities from providing supportive contacts to assist individuals and groups with adjustment to crisis, transition, economic change, or personal or a family member's health condition if such persons or organizations do not represent themselves to be social workers;

(f) Social casework for and prevention of psychosocial dysfunction, disability, or impairment; and

(g) Social work research, consultation, and education. (5) clinical treatment and prevention of psychosocial dysfunction, disability, or impairment, including emotional and mental disorders; and (6) social work consultation and education.

(2) Social work practice shall not include the following:

(a) The measuring and testing of personality or intelligence;

(b) ~~accepting~~ Accepting fees or compensation for the treatment of disease, injury, or deformity of persons by drugs, surgery, or any manual or mechanical treatment whatsoever;

(c) ~~prescribing~~ Prescribing drugs or electroconvulsive therapy; and

(d) ~~treating~~ Treating organic diseases or major

psychiatric diseases, except ~~when practiced in association with and under the general supervision of a licensed physician~~ by an individual seeking to fulfill postgraduate requirements for licensure under the supervision of a licensed professional as provided in section 31 of this act.

(3) A certified master social worker who practices within the confines of this section shall not be required to be licensed as a mental health practitioner.

Sec. 31. After the operative date of this section, no person shall engage in mental health practice or hold himself or herself out as a mental health practitioner unless he or she is licensed for such purpose pursuant to the Uniform Licensing Law, except that this section shall not be construed to prevent:

(1) Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;

(2) Alcohol and drug abuse counselors who are certified by the Division on Alcoholism and Drug Abuse of the Department of Public Institutions from practicing their profession. Such exclusion shall include students training and working under the supervision of a certified alcohol and drug abuse counselor to become certified;

(3) Any person employed by an agency, bureau, or division of the federal government from discharging his or her official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed mental health practitioner, he or she shall be licensed;

(4) Teaching or the conduct of research related to mental health services or consultation with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;

(5) The delivery of mental health services by:

(a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions;  
or

(b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;

(6) Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;

(7) The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health

practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;

(8) Any person employed by an agency or department of the State of Nebraska from discharging official duties within such agency or department during the six years immediately following the operative date of this section, except that no person shall represent himself or herself as a licensed mental health practitioner unless he or she holds such a license;

(9) Any person providing emergency crisis intervention or referral services or limited services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or licensed clinical psychologist if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice; or

(10) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

Sec. 32. The board shall have a committee for each of the associated practices of social work, professional counseling, and marriage and family therapy. Each committee shall be composed of three licensed professional members, two who shall represent the respective profession on the board and one who shall represent such profession at large, except that the third member of the social work committee shall be a certified social worker.

The board and the department, upon the advice of the appropriate committee, shall adopt and promulgate rules and regulations and administer specific legislative provisions for the respective associated practices.

Each member of the committees shall receive a per diem and be reimbursed for his or her actual and necessary expenses the same as members of the board.

Sec. 33. (1) On and after the operative date of this section, no person shall hold himself or herself out as a licensed mental health practitioner unless he or she is licensed as such by the department. A person shall be qualified to be a licensed mental health practitioner if he or she:

(a) Has received a master's degree, the course work and training leading to which was primarily therapeutic mental health in content and included a practicum or internship which required a minimum of three hundred clock hours of direct client contact under the supervision of a qualified physician, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on the operative date of this section for any hours completed before such date or of a qualified

physician, a licensed clinical psychologist, or a licensed mental health practitioner for any hours completed after such date, from a regionally accredited institution or an institution the mental health program of which is accredited by a nationally recognized accreditation agency;

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

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

(2) For a period of one year following the operative date of this section:

(a) An individual who is certified on the operative date of this section as a certified master social worker or certified professional counselor can be licensed as a mental health practitioner by making application to the department and paying the licensure fee; and

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

Sec. 34. (1) Except as otherwise provided in this section, each licensed mental health practitioner shall, in the period since his or her license was issued or last renewed, complete at least thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars.

The board and the department shall determine the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars shall be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2)(a) Each licensed mental health practitioner shall submit

evidence, on forms provided by the department, that he or she has satisfied the requirements of this section before his or her license is renewed. Such evidence shall be submitted at the time application for renewal of a license is made.

(b) If the licensed mental health practitioner has satisfied the requirements of this section at the time application for renewal of the license is submitted, his or her license shall be automatically renewed.

(c) If the licensed mental health practitioner has not satisfied the requirements of this section at the time application for renewal of the license is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of this section has been granted or a waiver of the requirements of this section approved, the license shall be automatically revoked in the manner and form provided in section 71-149.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year licensing period when a licensed mental health practitioner submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the licensee:

(a) Holds a Nebraska license but is not engaged in mental health practice in Nebraska;

(b) Has been in the service of the regular armed forces of the United States during any part of the period since his or her license was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a licensed mental health practitioner in the State of Nebraska since his or her license was issued or last renewed.

(4) Any person seeking to reinstate a license which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the license. Any person seeking to reinstate a license which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of the approved continuing education requirements within one year prior to his or her application for reinstatement.

(5) Each licensed mental health practitioner shall provide a sworn affidavit listing continuing education activities which he or she participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designated by the department. Each licensed mental health practitioner shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers. The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensed

mental health practitioner selected for audit shall be required to produce documentation of his or her attendance at those continuing education courses, clinics, forums, lectures, programs, or seminars listed on his or her renewal application.

(6) The department shall not renew or reinstate a license for any person who has failed to comply with the requirements of this section.

(7) Any continuing education hours accepted for renewal of an associated certificate in social work, professional counseling, or marriage and family therapy shall be credited toward fulfillment of the thirty-two hours of continuing education required for renewal of a license as a mental health practitioner.

Sec. 35. The department, upon the advice of the board, shall adopt and promulgate rules and regulations to administer sections 31 to 34 of this act, including rules and regulations governing:

(1) Ways of clearly identifying students, interns, and other persons providing mental health practice services under supervision;

(2) The rights of persons receiving mental health practice services;

(3) The rights of clients to gain access to their records, including the right of any client to receive one complete copy of his or her record free of charge;

(4) The contents and methods of distribution of disclosure statements to clients of licensed mental health practitioners; and

(5) Approval of examinations and educational programs.

Sec. 36. The Legislature finds that certified social workers and certified master social workers provide a wide range of psychosocial assessment, intervention, and support services that do not constitute the clinical treatment services of licensed mental health practitioners, psychologists, or physicians. The Legislature therefor finds that it is appropriate to provide for certification of social workers and master social workers.

Sec. 37. That section 71-1,256, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,256. After October 1, 1987 the operative date of this section, no person may represent himself or herself as a social worker unless he or she is certified to practice social work pursuant to sections 71-1,244 to 71-1,264 the Uniform Licensing Law, except that nothing in such sections this section shall be construed to prevent:

(1) Qualified members of other professions, including, but not limited to, licensed physicians, registered or licensed practical nurses, attorneys, marriage and family therapists, psychologists, psychotherapists, vocational guidance counselors, school psychologists, members of the clergy, court employees, or other persons licensed or certified under Chapter 71, article 1, from doing work consistent with the scope of practice of their respective professions, except that such qualified members shall not hold themselves out to the public by title as being engaged in the practice of social work; or

(2) The activities and services of a student or intern in social work practice who is pursuing a course of study in an approved educational program if the activities and services constitute a part of his or her supervised course of study or experience for certification and are performed under the supervision of a certified master social worker and the person is identified by an appropriate title as a social work student or intern. For purposes of this subdivision, supervision shall mean that written records of services or procedures are examined and evaluative interviews are conducted relative thereto by a certified master social worker.

Sec. 38. That section 71-1,258, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,258.~~ (1) A person shall be qualified to be a certified master social worker if he or she:

(a) ~~has~~ Has a doctorate or a master's degree in social work from an approved educational program; ;

(b) ~~has~~ Has had a minimum of at least three thousand hours of experience, in addition to the master's or doctorate degree, in social work under the supervision as defined in section 37 of this act of a certified master social worker; ;

(c) ~~provides~~ Provides evidence to the board that he or she meets the requirements of subdivisions (1)(a) and (1)(b) of this section; ; and

(d) ~~satisfactorily~~ Satisfactorily passes an examination approved by the board.

The department, upon the recommendation of the board, may adopt and promulgate rules and regulations defining the experience required under subdivision (1)(b) of this section.

(2) A person shall be qualified to be a certified social worker if he or she:

(a) Provides evidence to the board that he or she has a baccalaureate or master's degree in social work:

(i) From an approved educational program; or

(ii) From any program of social work education and training in which the person was enrolled between July 17, 1983, and October 1, 1987, if the person ~~applies~~ applied to the department for a certificate by October 1, 1990;

(b) ~~Applies~~ Applied to the department for a certificate by October 1, 1991, and ~~provides~~ provided evidence to the board that he or she:

(i) Has a baccalaureate or master's degree in a field related to social work, such as, psychology, sociology, gerontology, human services, human development, family relations, or counseling; and

(ii) Has been actually engaged in the practice of social work for at least one thousand hours in a nursing home; or

(c) ~~Applies~~ Applied to the department for a certificate by October 1, 1991, and ~~provides~~ provided evidence to the board that he or she has been actually engaged in the practice of social work in a



nursing home at least twenty hours per week for at least three of the seven years prior to making such application.

For purposes of this subsection, actually engaged in the practice of social work may include (i) services and activities provided under the direct supervision of a person with at least a master's degree in social work from an approved educational program or (ii) services and activities which are classified by title or description of duties and responsibilities as social work practice.

Sec. 39. That section 71-1,260, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,260: (1) Upon payment of the fee provided in section 71-162 and the provision of evidence to the board of his or her professional education, training, experience, and qualifications to practice certified master social work, a certificate to practice as a certified master social worker shall be issued without examination to any applicant who (a) applies to the department for a certificate by October 1, 1987, (b) satisfies the board that he or she has had at least three thousand hours of experience in the practice of social work in addition to the master's or doctorate degree, and (c) satisfies the educational requirements established in subsection (1) of section 71-1,258.~~

~~(2) Upon payment of the fee provided in section 71-162 and the provision of evidence to the board of his or her professional education, training, experience, and qualifications to practice certified social work, a certificate to practice as a certified social worker shall be issued to any applicant who (a) (1) applies to the department for a certificate and satisfies the educational requirements of subdivision (2)(a) of section 38 of this act 71-1,258 or (b) (2) applies to the department for a certificate by October 1, 1991, and satisfies the educational and practice requirements of subdivision (2)(b) of such section 71-1,258 or satisfies the practice requirements of subdivision (2)(c) of such section, 71-1,258. An applicant shall submit all materials, as the board or department may require, to determine his or her qualifications for a certificate to practice as a certified social worker and to determine his or her compliance with the requirements of this subsection section. Failure to comply with these provisions shall be sufficient grounds to reject an application for a certificate to practice as a certified social worker under subdivision (b) of this subsection this section.~~

Sec. 40. That section 71-1,261, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,261: (1) Except as otherwise provided in this section, each certified social worker and each certified master social worker and section 71-1,263, each certificate holder shall, in the period since his or her certificate was issued or last renewed, complete at least thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars.~~

The board and the department shall determine the manner in which attendance at all approved courses shall be monitored, recorded, and submitted to the department. Such rules and regulations shall be

adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2)(a) Each certificate holder shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made.

(b) If the certificate holder has satisfied the requirements of this section at the time application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed.

(c) If the certificate holder has not satisfied the requirements of this section at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of this section has been granted or a waiver of its requirements approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period or for the period of time since the certificate was last issued when a certificate holder submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing social work in Nebraska;

(b) Has been in the service of the regular armed forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified social worker in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of approved continuing education credits within one year prior to his or her application for reinstatement.

(5) Each certificate holder shall provide a sworn affidavit listing the continuing education activities which he or she participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the certificate renewal application as may be designated by the department. Each certificate holder shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from

approved providers. The board may select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certificate holder selected for audit shall be required to produce documentation of his or her attendance at those continuing education seminars listed on his or her renewal application.

(6) The department shall not renew a certificate or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 41. That section 71-1,263, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,263.~~ The ~~initial~~ certificates for certified social workers and certified master social workers shall be renewed on ~~October 1, 1988, and shall thereafter be renewed on October~~ September 1 of each even-numbered year. The department, on the recommendation of the board, shall set the initial certification fees and the biennial certification fees for certified social workers and certified master social workers pursuant to section 71-162. ~~The department, on the recommendation of the board, shall determine the continuing education requirements for the period October 1, 1987, to October 1, 1988.~~

Sec. 42. That section 71-1,264, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,264.~~ Nothing in sections ~~71-1,244 to 71-1,264~~ 36 to 41 of this act shall be construed to require the State of Nebraska, any agency of the State of Nebraska, or any of the entities which operate under rules and regulations of a state agency, which either employ or contract for the services of social services workers, to employ or contract with only persons certified pursuant to such sections ~~71-1,244 to 71-1,264~~ for the performance of any of the professional activities enumerated in section ~~71-1,248~~ 30 of this act.

Sec. 43. That section 71-1,267, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,267.~~ After ~~September 1, 1988~~ the operative date of this section, no person shall represent himself or herself as a certified professional counselor unless he or she is certified for such purpose pursuant to the Uniform Licensing Law.

Sec. 44. That section 71-1,269, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,269.~~ A person shall be qualified to be a certified professional counselor if he or she:

(1) Has received a master's degree from an approved educational program; ~~approved by the board;~~

(2) ~~has~~ Has had three years of full-time experience in professional counseling approved by the board after receipt of the master's degree, except that (a) one year of experience may be obtained prior to the granting of the master's degree if the master's program included an internship component acceptable to the board and (b) thirty graduate semester hours beyond the master's degree may be substituted for one year of required experience if the hours are clearly related to the field of

professional counseling. In no case may the applicant have less than one year of full-time experience in professional counseling; and

(3) ~~except as provided in section 71-1,271, satisfactorily~~ Satisfactorily passes an examination approved by the board.

The department, upon the recommendation of the board, may adopt and promulgate rules and regulations prescribing the experience required under subdivision (2) of this section.

Sec. 45. That section 71-1,273, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,273.~~ (1) Except as otherwise provided in this section, ~~and section 71-1,275,~~ each certified professional counselor shall, in the period since his or her certificate was issued or last renewed, complete at least forty hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars.

The board and the department shall determine the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars shall be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2)(a) Each certified professional counselor shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made.

(b) If the certified professional counselor has satisfied the requirements of this section at the time application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed.

(c) If the certified professional counselor has not satisfied the requirements of this section at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of this section has been granted or a waiver of the requirements of this section approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period when a certified professional counselor submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing professional counseling in Nebraska;

(b) Has been in the service of the regular armed forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified professional

counselor in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least twenty hours of the approved continuing education requirements within one year prior to his or her application for reinstatement.

(5) Each certified professional counselor shall provide a sworn affidavit listing continuing education activities which he or she participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the certificate renewal application as may be designated by the department. Each certified professional counselor shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers. The board may biennially select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certified professional counselor selected for audit shall be required to produce documentation of his or her attendance at those continuing education courses, clinics, forums, lectures, programs, or seminars listed on his or her renewal application.

(6) The department shall not renew a certificate or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 46. That section 71-1,275, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,275. (1) Notwithstanding any other provision in the Uniform Licensing Law, the initial certificate shall be valid for two years and shall expire on September 1, 1990. Commencing on September 1, 1990, a certificate~~ A certificate as a professional counselor shall be renewed on September 1 of each even-numbered year. The department, on the recommendation of the board, shall set the initial certification fees and the biennial certification renewal fees for certified professional counselors pursuant to section 71-162.

~~(2) The board shall refund any fee paid by a person registering with the department as a registered counselor under section 71-1,269 as such section existed prior to April 8, 1988.~~

Sec. 47. That section 71-1,277, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-1,277. (1) Any person who represents himself or herself as a certified professional counselor without first being certified pursuant to the Uniform Licensing Law shall be guilty of a Class IV misdemeanor.~~

(2) Any person certified pursuant to the Uniform Licensing

Law who engages in the practice of professional counseling without complying with such law may have such certification denied, refused renewal, limited, revoked, or suspended and shall otherwise be subject to disciplinary measures under sections 71-147 to 71-161.18.

Sec. 48. (1) A person who applies to the department for certification as a marriage and family therapist within one year or less after the operative date of this section shall be qualified for such certification if he or she:

(a) Meets the requirements of subsection (2) of this section;

or

(b)(i)(A) Provides evidence to the board that he or she has a master's or doctoral degree in marriage and family therapy from an educational program approved by the board or from any program in marriage and family therapy in which the person was enrolled between January 1, 1975, and August 31, 1991; or

(B) Provides evidence to the board that he or she has a master's or doctoral degree in a field determined by the board to be related to marriage and family therapy, such as social work, psychology, sociology, human services, human development, family relations, or counseling, and has been actively engaged in the practice of marriage and family therapy for at least three thousand hours; and

(ii) Provides evidence to the board that he or she has been actually engaged in the practice of marriage and family therapy for at least twenty hours per week for at least three of the seven years prior to making such application.

(2) A person who applies to the department for certification as a marriage and family therapist more than one year after the operative date of this section shall be qualified for such certification if he or she:

(a) Provides evidence to the board that he or she has a master's or doctoral degree in marriage and family therapy from a program approved by the board or a graduate degree in a field determined by the board to be related to marriage and family therapy and graduate-level coursework determined by the board to be equivalent to a master's degree in marriage and family therapy;

(b) Provides evidence to the board that he or she has had at least three thousand hours of experience in marriage and family therapy under a qualified supervisor as defined in subsection (4) of this section following receipt of the graduate degree; and

(c) Passes an examination approved by the board.

(3) Upon payment of the fee provided in section 71-162 and the provision of evidence to the board of his or her professional education, training, experience, and qualifications to practice marriage and family therapy, a certificate to practice as a certified marriage and family therapist shall be issued to any applicant who applies to the department for a certificate and satisfies the educational requirements of subsection (1) or (2) of this section. An applicant shall submit all materials as the board or department may require to determine his or her qualifications for a certificate to practice as a certified marriage and family therapist and to

determine his or her compliance with the requirements of this section. Failure to comply with these provisions shall be sufficient grounds to reject an application for a certificate to practice as a certified marriage and family therapist under this section.

(4) For purposes of this section:

(a) Actively engaged in the practice of marriage and family therapy may include (i) services and activities provided under the direct supervision of a person with at least a master's degree in marriage and family therapy from a program approved by the board or (ii) services and activities that are classified by title or by description of duties and responsibilities as marriage and family therapy practice;

(b) Qualified supervisor shall mean a licensed mental health practitioner, licensed clinical psychologist, or licensed physician who meets supervisory standards established by rules and regulations of the board and the department on the advice of the marriage and family therapy committee; and

(c) Supervision shall mean face-to-face contact between an applicant and a qualified supervisor during which the applicant apprises the supervisor of the diagnosis and treatment of each client, the clients' cases are discussed, the supervisor provides the applicant with oversight and guidance in treating and dealing with clients, and the supervisor evaluates the applicant's performance. In order for a supervised period of time to be credited toward the time of supervision required by subdivision (2)(b) of this section, it shall consist of the following:

(i) A minimum of two hours of supervision every two weeks;

(ii) Two hours of supervision per fifteen hours of the applicant's contact with clients, whether or not the number of hours of supervision required for a two-week period have been met;

(iii) Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;

(iv) A process which is distinguishable from personal psychotherapy or didactic instruction; and

(v) The supervisor one-on-one with the applicant at least fifty percent of the time, with the supervisor supervising no more than six supervisees during the balance of time.

Supervision provided by the applicant's parents, spouse, former spouses, siblings, children, employees, or anyone sharing the same household or any romantic, domestic, or familial relationship shall be considered a conflict of interest and shall not be acceptable toward fulfillment of certification requirements. A supervisor shall not be considered an employee of the applicant if the only compensation received by the supervisor consists of payment for actual supervisory hours.

Sec. 49. (1) Except as otherwise provided in this section, each certified marriage and family therapist shall, in the period since his or her certificate was issued or last renewed, complete at least thirty-two

hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars. The board and the department shall determine the manner in which attendance at all approved courses shall be monitored, recorded, and submitted for the department. Such rules and regulations shall be adopted and promulgated in the manner and by the form prescribed by sections 71-161.09 and 71-161.10.

(2) Each certificate holder shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of subsection (1) of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made. If the certificate holder has satisfied the requirements of such subsection at the time that an application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed. If the certificate holder has not satisfied the requirements of such subsection at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of such subsection has been granted or a waiver of its requirements approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period or for the period of time since the certificate was last issued when a certificate holder submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing marriage and family therapy in Nebraska;

(b) Has been in the service of the regular Armed Forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified marriage and family therapist in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of approved continuing education credits within one year prior to his or her application for reinstatement.

(5) Each certificate holder shall provide a sworn affidavit listing the continuing education activities which he or she participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the certificate renewal application as may



be designated by the department. Each certificate holder shall be responsible for maintaining in his or her personal files such certificates as records of credit from continuing education activities received from approved providers. The board may select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certificate holder selected for audit shall be required to produce documentation of his or her attendance at those continuing education seminars listed on his or her renewal application.

(6) The department shall not renew or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 50. The certificates for certified marriage and family therapists shall be renewed on September 1 of each even-numbered year. The department, on the recommendation of the board, shall set the initial certification fees and the biennial certification fees for certified marriage and family therapists pursuant to section 71-162.

Sec. 51. Nothing in sections 48 to 51 of this act shall be construed to require the State of Nebraska, any agency of the State of Nebraska, or any of the entities which operate under rules and regulations of a state agency, which employ or contract for the services of marriage and family therapists, to employ or contract with only persons certified pursuant to this section for the performance of any of the professional activities enumerated in section 30 of this act.

Sec. 52. That section 71-1,270, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,270. (1) The department shall issue a certificate, signed by the director, to each person who is qualified to be a certified master social worker, certified social worker, certified professional counselor, or certified marriage and family therapist.

(2) The department shall issue a license, signed by the director, to each person who is qualified to be a licensed mental health practitioner.

Sec. 53. The Mental Health Practice Fund is hereby created. The money in the fund shall be used by the Bureau of Examining Boards to carry out the statutory and regulatory duties pertaining to mental health practice.

The State Treasurer shall credit to the fund all licensure and renewal fees for mental health practice and certification and renewal fees for social work, professional counseling, and marriage and family therapy remitted by the department pursuant to section 71-162 except the amounts distributed pursuant to sections 33-150 and 71-6228. Any money in the Social Work Fund or the Professional Counselor Fund on the operative date of this section shall be transferred on such date to the Mental Health Practice Fund.

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. 54. No person licensed or certified pursuant to

sections 14 to 57 of this act shall disclose any information he or she may have acquired from any person consulting him or her in his or her professional capacity except:

(1) With the written consent of the person or, in the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition. When more than one person in a family receives therapy conjointly, each such family member who is legally competent to execute a waiver shall agree to the waiver referred to in this subdivision. Without such a waiver from each family member legally competent to execute a waiver, a practitioner shall not disclose information received from any family member;

(2) As such privilege is limited by the laws of the State of Nebraska or as the Board of Examiners in Mental Health Practice may determine by rule and regulation; or

(3) When the person waives the privilege by bringing charges against the licensee; or

(4) When there is a duty to warn under the limited circumstances set forth in section 55 of this act.

Sec. 55. (1) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is licensed or certified pursuant to sections 14 to 57 of this act for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the mental health practitioner a serious threat of physical violence against himself, herself, or a reasonably identifiable victim or victims.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior shall arise only under the limited circumstances specified in subsection (1) of this section. The duty shall be discharged by the mental health practitioner if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.

(3) No monetary liability and no cause of action shall arise under section 54 of this act against a licensee or certificate holder for information disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

Sec. 56. The Board of Examiners in Mental Health Practice shall adopt a code of ethics which is essentially in agreement with the current code of ethics of the national and state associations of the specialty professions included in mental health practice and which the board deems necessary to assure adequate protection of the public in the provision of mental health services to the public. A violation of the code of ethics shall be considered an act of unprofessional conduct.

The board shall ensure through the code of ethics and the rules and regulations adopted and promulgated under sections 14 to 57 of this act that persons licensed or certified pursuant to sections 14 to 57 of

this act limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

Intentional failure by a mental health practitioner to report known acts of unprofessional conduct by a mental health practitioner to the department or the board shall be considered an act of unprofessional conduct and shall be grounds for disciplinary action under appropriate sections of the Uniform Licensing Law unless the mental health practitioner has acquired such knowledge in a professional relationship otherwise protected by confidentiality.

Sec. 57. Any person who violates any provision of the Uniform Licensing Law related to mental health practice shall be guilty of a Class III misdemeanor, and any such violation by a person licensed or certified pursuant to sections 14 to 57 of this act shall be cause for disciplinary action as provided in sections 71-147 to 71-161.18.

Sec. 58. That section 71-2017.01, Revised Statutes Supplement, 1992, be amended to read as follows:

71-2017.01. For purposes of sections 71-2017 to 71-2029, unless the context otherwise requires:

(1) Care shall mean the exercise of concern or responsibility for the comfort and welfare of the residents of a facility by the owner, occupant, administrator, or operator of the facility in addition to the provision of food and shelter to the residents and shall include, but not be limited to, the maintenance of a minimum amount of supervision of the activities of the residents of the facility as well as the provision of a minimum amount of assistance to the residents and shall also include personal care, hereby defined as the provision of health-related services for individuals who are in need of a protective environment but who are otherwise able to manage the normal activities of daily living;

(2) Hospital shall mean (a) any institution, facility, place, or building which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or medical care over a period exceeding twenty-four consecutive hours of two or more nonrelated individuals suffering from illness, condition, injury, or deformity, (b) any institution, facility, place, or building which is devoted primarily to the rendering over a period exceeding twenty-four consecutive hours of obstetrical or other medical care for two or more nonrelated individuals, or (c) any institution, facility, place, or building in which any accommodation is primarily maintained, furnished, or offered for the medical and nursing care over a period exceeding twenty-four consecutive hours of two or more nonrelated aged or infirm persons requiring or receiving convalescent care. Hospital shall include, but not be limited to, facilities or parts of facilities which provide space for general acute hospitals, short-term hospitals, rehabilitation hospitals, long-term care hospitals, psychiatric or mental hospitals, and emergency hospitals or treatment centers. Hospital shall not be construed to include the residence, office, or clinic of a private physician or of an association of physicians, any other health practitioner, or any practitioner or association of practitioners licensed pursuant to Chapter 71, in which residence, office,

or clinic patients are not treated or given care for a period in excess of twenty-four consecutive hours;

(3) General acute hospital shall mean a hospital having a duly constituted governing body which exercises administrative and professional responsibility and an organized medical staff which provides inpatient care, including medical, nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, and dietary services. Such services may be provided through a contract or agreement;

(4) Short-term hospital shall mean a hospital that (a) is primarily devoted to the diagnosis and treatment of individuals requiring short-term treatment or treatment of diagnosis consistent with the medical support available and (b) has written coordination agreements with a general acute hospital for transfers and quality assurance programs. Short-term hospital shall not mean a facility for the treatment of mental diseases, a rehabilitation hospital, an alcoholic treatment center, or a drug treatment center;

(5) Rehabilitation hospital shall mean a hospital which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services provided under professional supervision;

(6) Long-term care hospital shall mean any hospital, any distinct part of any hospital, or any portion of a hospital which is primarily devoted to providing the care and services as set forth in subdivisions (10), (11), and (22) of this section;

(7) Psychiatric or mental hospital shall mean a hospital which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(8) Emergency hospital or treatment center shall mean a hospital primarily devoted to the diagnosis and treatment of individuals requiring emergency outpatient services and emergency care and with written coordination agreements with a general acute hospital for transfers and quality assurance programs;

(9) Health clinic shall mean any institution, facility, place, building, or agency, not licensed as a hospital, which is operated under the name or title of health clinic, health center, or any other word or phrase of like or similar import, either independently or in connection with any other purpose, for the purpose of providing or making available at such institution, facility, place, building, or agency on an outpatient basis and for a period not exceeding twenty-four consecutive hours advice, counseling, diagnosis, treatment, care, or services relating to the preservation or maintenance of health primarily or exclusively to persons not residing or confined in such institution, facility, place, building, or agency. Satellite clinics operated on an intermittent basis at a specific location or site and providing services within a portion of the total geographic area served by a licensed health clinic need not be licensed but may operate as a part of the parent clinic and share administration and services. Specific types or categories of health clinics may be further

defined by appropriate rule and regulation of the Department of Health not inconsistent with this definition and in no case shall be construed to include the residence, office, or clinic of a private physician or an association of physicians, any other health practitioner or association of practitioners, or any practitioner licensed pursuant to Chapter 71 unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week in such residence, office, or clinic;

(10) Skilled nursing facility shall mean any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients skilled nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 71-2017.06, a skilled nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week, and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.06, a skilled nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the skilled nursing facility has an average daily occupancy of sixty or fewer residents;

(11) Intermediate care facility shall mean any institution, facility, place, or building in which accommodation and board for a period exceeding twenty-four consecutive hours and also nursing care and related medical services are provided for two or more nonrelated individuals who are ill, injured, or disabled but not in need of hospital or skilled nursing facility care, but who by reason of illness, disease, injury, deformity, disability, convalescence, or physical or mental infirmity require such nursing care and related medical services. An intermediate care facility shall provide at least one licensed registered nurse or licensed practical nurse on duty on the day shift seven days per week and at least one licensed registered nurse, licensed practical nurse, or care staff member on duty on the other two shifts seven days per week. An intermediate care facility shall provide a Director of Nursing Services, who shall be a licensed registered nurse, to administer, supervise, delegate, and evaluate nursing and nursing support services of the facility. The Director of Nursing Services shall serve on the day shift five days per week, eight hours per day, except when it is necessary to vary working hours to provide supervision on other shifts, and may satisfy the day-shift nurse requirement for five of seven days per week if he or she can meet both the nursing care needs of the patients or residents for that shift and his or her administrative and supervisory responsibilities as Director of Nursing Services;

(12) Intermediate care facility for the mentally retarded shall mean any institution, facility, place, or building, not licensed as a

hospital, that provides accommodation, board, training or habilitation services, advice, counseling, diagnosis, treatment, and care, including nursing care and related medical services, for a period exceeding twenty-four consecutive hours for fifteen or more nonrelated individuals who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities. The requirement of fifteen or more nonrelated individuals shall not apply to any intermediate care facility for the mentally retarded which has a valid license as of January 1, 1988;

(13) Residential care facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more nonrelated individuals who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs but do not require the daily services of a licensed registered nurse or licensed practical nurse;

(14) Domiciliary facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation and supervision to four or more individuals, not related to the owner, occupant, manager, or administrator thereof, who are essentially capable of managing their own affairs but who are in need of supervision, including supervision of nutrition, by the institution, facility, place, or building on a regular, continuing basis but not necessarily on a consecutive twenty-four-hour basis. This definition shall not include those homes or facilities providing casual care at irregular intervals;

(15) Mental health center shall mean any institution, facility, place, or building, not licensed as a hospital, which is used to provide for a period exceeding twenty-four consecutive hours accommodation, board, and advice, counseling, diagnosis, treatment, care, or services primarily or exclusively to persons residing or confined in the institution, facility, place, or building who are afflicted with a mental disease, disorder, or disability;

(16) Center for the developmentally disabled shall mean any residential institution, facility, place, or building, not licensed as a hospital, which is used to provide accommodation, board, and training, advice, counseling, diagnosis, treatment, care, including medical care when appropriate, or services primarily or exclusively to four or more persons residing in the institution, facility, place, or building who have developmental disabilities;

(17) Alcoholic treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals having any type of habituation, dependency, or addiction to the use of alcohol, in which are provided guidance,

supervision, and personal services relating to those areas of adjustment which enable the alcohol dependent or alcoholic to move into independent living in normal surroundings but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one. Alcoholic treatment center shall include institutions, facilities, places, or buildings in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the institution, facility, place, or building having any type of habituation, dependency, or addiction to the use of alcohol. Specific types or categories of alcoholic treatment centers may be further defined by appropriate rule and regulation of the department not inconsistent with this definition;

(18) Drug treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals who have any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug, in which are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the drug user, dependent, or addict to move into independent living in normal surroundings but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one. Drug treatment center shall include institutions, facilities, places, or buildings in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the institution, facility, place, or building having any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug. Specific types or categories of drug treatment centers may be further defined by appropriate rule and regulation of the department not inconsistent with this definition;

(19) Home health agency shall mean a public agency, private organization, or subdivision of such an agency or organization which is primarily engaged in providing skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to patients in a place of temporary or permanent residence used as the patient's home under a plan of care as prescribed by the attending physician and which meets the rules, regulations, and standards as established by the department. Nothing in this subdivision shall be construed to require (a) a physician's plan of care, (b) a summary report to the physician, (c) a progress report, or (d) a discharge summary when only personal care or assistance with the activities of daily living, as such terms are defined in section 71-6602, are provided. Parent home health agency shall mean the primary home health agency which establishes, maintains, and assures administrative and supervisory control of branch offices and subunits. Branch office shall mean a home health agency which is at a location or site providing

services within a portion of the total geographic area served by the parent agency and is in sufficient proximity to share administration, supervision, and services with its parent agency in a manner that renders it unnecessary for the branch independently to meet licensure requirements. A branch office shall be part of its parent home health agency and share administration and services. Subunit shall mean a home health agency which serves patients in a geographic area different from that of the parent agency and which, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services on a daily basis and shall independently meet the licensing requirements for home health agencies. Home health agency shall not include private duty nursing registries as long as the private duty nursing registrant is the direct payee from the patient. Home health agency shall not apply to the practice of home health care by other licensed medical persons as authorized by the practice of their particular specialty nor to the individuals providing homemaker or chore services within the home;

(20) Developmental disability shall mean a severe, chronic disability of a person which (a) is attributable to a mental or physical impairment or combination of mental and physical impairment, (b) is manifested before the person attains the age of twenty-two, (c) is likely to continue indefinitely, (d) results in substantial functional limitations in three or more of the following areas of major life activity: Self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living; and economic self-sufficiency, and (e) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;

(21) Qualified mental retardation professional shall mean any person (a) who has satisfied any of the educational requirements listed in this subdivision, (b) who has at least two years of additional experience in treating persons with mental retardation, one of which was spent in an administrative capacity, and (c) who has offered proof of fulfillment of the requirements prescribed in this subdivision to the department. Educational requirements to satisfy this subdivision shall include the following: A psychologist with at least a master's degree in psychology from an accredited college or university and with specialized training or one year of experience in treating persons with mental retardation; a physician licensed under the Uniform Licensing Law to practice medicine and surgery, osteopathic medicine and surgery, or as an osteopathic physician and with specialized training or one year of experience in treating persons with mental retardation; an educator with a degree in education from an accredited college or university and with specialized training or one year of experience in working with persons with mental retardation; or a certified social worker, ~~or~~ certified master social worker, or licensed mental health practitioner certified or licensed ~~certificated~~ under the Uniform Licensing Law who has at least three years' social work or mental health practice experience and specialized



training or one year of experience in working with persons with mental retardation; and

(22) Nursing facility shall mean any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 71-2017.07, a nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week, and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.07, a nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the nursing facility has an average daily occupancy of sixty or fewer residents.

Sec. 59. That section 71-6054, Revised Statutes Supplement, 1992, 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) 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 (ii) 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) ~~certified as~~ 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. 60. This act shall become operative on September 1, 1994.

Sec. 61. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 62. That original sections 71-102, 71-107, 71-110, 71-112, 71-113, 71-114, 71-116, 71-1,207, 71-1,248 to 71-1,252, 71-1,255, 71-1,256, 71-1,258, 71-1,260, 71-1,261, 71-1,263, 71-1,264, 71-1,266, 71-1,267, 71-1,269, 71-1,270, 71-1,273, 71-1,275, and 71-1,277, Reissue Revised Statutes of Nebraska, 1943, and sections 33-150, 71-101, 71-131, 71-162, 71-2017.01, and 71-6054, Revised Statutes Supplement, 1992, and also sections 71-1,244 to 71-1,247, 71-1,253, 71-1,254, 71-1,257, 71-1,259, 71-1,262, 71-1,265, 71-1,268, 71-1,271, and 71-1,274, Reissue Revised Statutes of Nebraska, 1943, are repealed.