

AMENDMENTS TO LB 236

(Amendments to E & R amendments, ER8067)

Introduced by Johnson, 37

1 1. Insert the following new sections:

2 Section 1. Section 71-101, Revised Statutes Cumulative
3 Supplement, 2006, as amended by section 296, Legislative Bill 296,
4 One Hundredth Legislature, First Session, 2007, is amended to read:

5 71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to
6 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, sections 31
7 to 38 of this act, the Perfusion Practice Act, and the Physical
8 Therapy Practice Act shall be known and may be cited as the Uniform
9 Licensing Law.

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

12 (1) Board or professional board means one of the boards
13 appointed by the State Board of Health pursuant to sections 71-111
14 and 71-112;

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

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

20 (4) Department means the Division of Public Health of the
21 Department of Health and Human Services;

22 (5) Whenever a particular gender is used, it is construed

1 to include both the masculine and the feminine, and the singular
2 number includes the plural when consistent with the intent of the
3 Uniform Licensing Law;

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

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

18 (8) Lapse means the termination of the right or privilege
19 to represent oneself as a licensed, certified, or registered person
20 and to practice the profession when a license, certificate, or
21 registration is required to do so;

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

1 certificate, or registration;

2 (10) Dependence means a compulsive or chronic need for
3 or an active addiction to alcohol or any controlled substance or
4 narcotic drug; and

5 (11) Director means the Director of Public Health of the
6 Division of Public Health.

7 Sec. 2. Section 71-102, Revised Statutes Cumulative
8 Supplement, 2006, as amended by section 297, Legislative Bill
9 296, One Hundredth Legislature, First Session, 2007, is amended to
10 read:

11 71-102 (1) No person shall engage in the practice
12 of medicine and surgery, athletic training, respiratory care,
13 osteopathic medicine, chiropractic, dentistry, dental hygiene,
14 pharmacy, podiatry, optometry, massage therapy, physical therapy,
15 audiology, speech-language pathology, embalming, funeral directing,
16 psychology, veterinary medicine and surgery, medical nutrition
17 therapy, acupuncture, perfusion, mental health practice, or alcohol
18 and drug counseling unless such person has obtained a license from
19 the department for that purpose.

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

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

27 (4) No person shall hold himself or herself out as a

1 certified marriage and family therapist unless such person has
2 obtained a certificate from the department for such purpose.

3 Sec. 3. Section 71-107, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 71-107 Every person credentialed under the Uniform
6 Licensing Law to practice a profession shall keep the credential
7 available in an office or place in which he or she practices and
8 shall show such proof of credentialing upon request.

9 On all signs, announcements, stationery, and
10 advertisements of persons credentialed to practice osteopathic
11 medicine, chiropractic, podiatry, optometry, audiology,
12 speech-language pathology, medical nutrition therapy, professional
13 counseling, social work, marriage and family therapy, mental
14 health practice, massage therapy, physical therapy, ~~or~~ alcohol
15 and drug counseling, or perfusion shall be placed the word
16 Osteopathic Physician, Chiropractor, Podiatrist, Optometrist,
17 Audiologist, Speech-Language Pathologist, Medical Nutrition
18 Therapist, Professional Counselor, Social Worker, Master Social
19 Worker, Marriage and Family Therapist, Mental Health Practitioner,
20 Massage Therapist, Physical Therapist, ~~or~~ Alcohol and Drug
21 Counselor, or Perfusionist, as the case may be.

22 Sec. 4. Section 71-110, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-110 (1) The credential to practice a profession
25 shall be renewed biennially without examination upon request
26 of the credentialed person and upon documentation of continuing
27 competency pursuant to sections 71-161.09 and 71-161.10. The

1 biennial credential renewals provided for in this section shall
2 be accomplished in such manner as the department, with the approval
3 of the designated professional board, shall establish by rule
4 and regulation. The biennial expiration date in the different
5 professions shall be as follows:

- 6 (a) January, pharmacy and psychology;
- 7 (b) February, funeral directing and embalming;
- 8 (c) March, dentistry and dental hygiene;
- 9 (d) April, podiatry and veterinary medicine and surgery;
- 10 (e) May, athletic training and acupuncture;
- 11 (f) June, respiratory care;
- 12 (g) August, chiropractic and optometry;
- 13 (h) September, alcohol and drug counseling, medical
14 nutrition therapy, mental health practice including any associated
15 certification, and osteopathic medicine;
- 16 (i) October, medicine and surgery and perfusion;
- 17 (j) November, massage therapy and physical therapy; and
- 18 (k) December, audiology and speech-language pathology.

19 The request for renewal need not be in any particular
20 form and shall be accompanied by the renewal fee. Such fee shall be
21 paid not later than the date of the expiration of such credential,
22 except that while actively engaged in the military service of
23 the United States, as defined in the Soldiers' and Sailors' Civil
24 Relief Act of 1940, as the act existed on January 1, 2002, persons
25 credentialed to practice the professions listed in this subsection
26 shall not be required to pay the renewal fee.

27 (2) When a person credentialed pursuant to the Uniform

1 Licensing Law desires to have his or her credential lapse upon
2 expiration, he or she shall notify the department of such desire
3 in writing. The department shall notify the credentialed person in
4 writing of the acceptance or denial of the request to allow the
5 credential to lapse. When the lapsed status becomes effective, the
6 right to represent himself or herself as a credentialed person and
7 to practice the profession in which a license is required shall
8 terminate. To restore the credential from lapsed to active status,
9 such person shall be required to meet the requirements for initial
10 credentialing which are in effect at the time that he or she wishes
11 to restore the credential.

12 (3) When a person credentialed pursuant to the Uniform
13 Licensing Law desires to have his or her credential placed on
14 inactive status upon its expiration, he or she shall notify the
15 department of such desire in writing and pay the inactive status
16 fee. The department shall notify the credentialed person in writing
17 of the acceptance or denial of the request to allow the credential
18 to be placed on inactive status. When the credential is placed on
19 inactive status, the credentialed person shall not engage in the
20 practice of such profession. A credential may remain on inactive
21 status for an indefinite period of time. In order to move a
22 credential from inactive to active status, a person shall be
23 required to meet the requirements for renewal which are in effect
24 at the time he or she wishes to regain active status.

25 (4) At least thirty days before the expiration of a
26 credential, the department shall notify each credentialed person
27 by a letter addressed to him or her at his or her last place of

1 residence as noted upon its records. Any credentialed person who
2 fails to notify the department of his or her desire to let his
3 or her credential lapse or be placed on inactive status upon its
4 expiration or who fails to meet the requirements for renewal on
5 or before the date of expiration of his or her credential shall
6 be given a second notice in the same manner as the first notice
7 advising him or her (a) of the failure to meet the requirements for
8 renewal, (b) that the credential has expired, (c) that the person
9 is subject to an administrative penalty under section 71-164.01 if
10 he or she practices after the expiration date and prior to renewal
11 of the credential, (d) that upon the receipt of the renewal fee
12 and the required late fee within thirty days after the expiration
13 date, no order of revocation will be entered, and (e) that upon the
14 failure to comply with subdivision (d) of this subsection within
15 such time, the credential will be revoked in the manner prescribed
16 in section 71-149.

17 (5) Any credentialed person who desires to reinstate the
18 credential not more than one year after the date of revocation
19 for failure to meet the renewal requirements shall apply to the
20 department for reinstatement. The credential may be reinstated upon
21 the recommendation of the board for his or her profession and the
22 receipt of evidence of meeting the renewal requirements and paying
23 the required late fee.

24 (6) Any credentialed person who desires to reinstate the
25 credential more than one year after the date of revocation for
26 failure to meet the renewal requirements shall petition the board
27 to recommend reinstatement as prescribed in section 71-161.05. The

1 credential may be reinstated upon the recommendation of the board
2 for his or her profession and the receipt of evidence of meeting
3 the renewal requirements and paying the required late fee.

4 Sec. 5. Section 71-112, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-112 (1) Professional boards under the Uniform
7 Licensing Law shall be designated as follows:

8 (a) For medicine and surgery, acupuncture, perfusion, and
9 osteopathic medicine and surgery, Board of Medicine and Surgery;

10 (b) For athletic training, Board of Athletic Training;

11 (c) For respiratory care, Board of Respiratory Care
12 Practice;

13 (d) For chiropractic, Board of Chiropractic;

14 (e) For dentistry and dental hygiene, Board of Dentistry;

15 (f) For optometry, Board of Optometry;

16 (g) For massage therapy, Board of Massage Therapy;

17 (h) For physical therapy, Board of Physical Therapy;

18 (i) For pharmacy, Board of Pharmacy;

19 (j) For audiology and speech-language pathology, Board of
20 Audiology and Speech-Language Pathology;

21 (k) For medical nutrition therapy, Board of Medical
22 Nutrition Therapy;

23 (l) For funeral directing and embalming, Board of Funeral
24 Directing and Embalming;

25 (m) For podiatry, Board of Podiatry;

26 (n) For psychology, Board of Psychologists;

27 (o) For veterinary medicine and surgery, Board of

1 Veterinary Medicine and Surgery;

2 (p) For mental health practice, Board of Mental Health
3 Practice; and

4 (q) For alcohol and drug counseling, Board of Alcohol and
5 Drug Counseling.

6 (2) Any change made by the Legislature of the names of
7 boards listed in this section shall not change the membership of
8 such boards or affect the validity of any action taken by or the
9 status of any action pending before any of such boards. Any such
10 board newly named by the Legislature shall be the direct and only
11 successor to the board as previously named.

12 Sec. 6. Section 71-162, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-162 (1) It is the intent of the Legislature that the
15 revenue to cover the cost of the credentialing system administered
16 by the department is to be derived from General Funds, cash funds,
17 federal funds, gifts, grants, or fees from individuals or entities
18 seeking credentials. The credentialing system includes the totality
19 of the credentialing infrastructure and the process of issuance and
20 renewal of credentials, examinations, inspections, investigations,
21 continuing competency, compliance assurance, and the credentialing
22 review process for the following individuals and entities that
23 provide health services and health-related services:

24 (a) Individuals in the practice of acupuncture;
25 advanced practice nursing; alcohol and drug counseling; asbestos
26 abatement, inspection, project design, and training; athletic
27 training; audiology; speech-language pathology; chiropractic;

1 dentistry; dental hygiene; environmental health; hearing aid
2 instrument dispensing and fitting; lead-based paint abatement,
3 inspection, project design, and training; medical nutrition
4 therapy; medical radiography; medication aide services; medicine
5 and surgery; mental health practice; nursing; nursing assistant
6 or paid dining assistant services; nursing home administration;
7 occupational therapy; optometry; osteopathic medicine; perfusion;
8 pharmacy; physical therapy; podiatry; psychology; radon detection,
9 measurement, and mitigation; respiratory care; social work;
10 swimming pool operation; veterinary medicine and surgery; water
11 system operation; constructing or decommissioning water wells and
12 installing water well pumps and pumping equipment; and

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

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

21 (3) When fees are to be established pursuant to section
22 71-162.04 for individuals or entities other than individuals in
23 the practice of constructing or decommissioning water wells and
24 installing water well pumps and pumping equipment, the department,
25 upon recommendation of the appropriate board if applicable, shall
26 base the fees on the cost of the credentialing system and shall
27 include usual and customary cost increases, a reasonable reserve,

1 and the cost of any new or additional credentialing activities.
2 For individuals in the practice of constructing or decommissioning
3 water wells and installing water well pumps and pumping equipment,
4 the Water Well Standards and Contractors' Licensing Board shall
5 establish the fees as otherwise provided in this subsection. All
6 such fees shall be collected as provided in section 71-163.

7 Sec. 7. Section 71-168, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-168 (1) The department shall enforce the Uniform
10 Licensing Law and for that purpose shall make necessary
11 investigations. Every credentialed person listed under subsection
12 (4) of this section and every member of a professional board shall
13 furnish the department such evidence as he or she may have relative
14 to any alleged violation which is being investigated.

15 (2) Every credentialed person listed under subsection (4)
16 of this section shall report to the department the name of every
17 person without a credential that he or she has reason to believe
18 is engaged in practicing any profession for which a credential is
19 required by the Uniform Licensing Law. The department may, along
20 with the Attorney General and other law enforcement agencies,
21 investigate such reports or other complaints of unauthorized
22 practice. The professional board may issue an order to cease and
23 desist the unauthorized practice of such profession as a measure to
24 obtain compliance with the applicable credentialing requirements by
25 the person prior to referral of the matter to the Attorney General
26 for action. Practice of such profession without a credential after
27 receiving a cease and desist order is a Class III felony.

1 (3) Any credentialed person listed under subsection (4)
2 of this section who is required to file a report of loss or
3 theft of a controlled substance to the federal Drug Enforcement
4 Administration shall provide a copy of such report to the
5 department.

6 (4) Every credentialed person regulated under the
7 Advanced Practice Registered Nurse Licensure Act, the Certified
8 Registered Nurse Anesthetist Act, the Clinical Nurse Specialist
9 Practice Act, the Emergency Medical Services Act, the Licensed
10 Practical Nurse-Certified Act, the Nebraska Certified Nurse
11 Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse
12 Practice Act, the Nurse Practitioner Act, the Occupational Therapy
13 Practice Act, the Uniform Controlled Substances Act, the Uniform
14 Licensing Law except pharmacist interns and pharmacy technicians,
15 the Wholesale Drug Distributor Licensing Act, or sections 71-3702
16 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068 shall, within
17 thirty days of an occurrence described in this subsection, report
18 to the department in such manner and form as the department may
19 require by rule and regulation whenever he or she:

20 (a) Has first-hand knowledge of facts giving him or
21 her reason to believe that any person in his or her profession
22 has committed acts indicative of gross incompetence, a pattern
23 of negligent conduct as defined in subdivision (5)(e) of section
24 71-147, or unprofessional conduct, may be practicing while his
25 or her ability to practice is impaired by alcohol, controlled
26 substances, narcotic drugs, or physical, mental, or emotional
27 disability, or has otherwise violated such regulatory provisions

1 governing the practice of the profession;

2 (b) Has first-hand knowledge of facts giving him or her
3 reason to believe that any person in another profession regulated
4 under such regulatory provisions has committed acts indicative
5 of gross incompetence or may be practicing while his or her
6 ability to practice is impaired by alcohol, controlled substances,
7 narcotic drugs, or physical, mental, or emotional disability. The
8 requirement to file a report under subdivision (a) or (b) of this
9 subsection shall not apply (i) to the spouse of the person, (ii)
10 to a practitioner who is providing treatment to such person in
11 a practitioner-patient relationship concerning information obtained
12 or discovered in the course of treatment unless the treating
13 practitioner determines that the condition of the person may be of
14 a nature which constitutes a danger to the public health and safety
15 by the person's continued practice, or (iii) when a credentialed
16 person who is chemically impaired enters the Licensee Assistance
17 Program authorized by section 71-172.01 except as provided in such
18 section; or

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

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

1 chemical impairment;

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

5 (iii) Adverse judgments, settlements, or awards arising
6 out of professional liability claims, including settlements made
7 prior to suit in which the patient releases any professional
8 liability claim against the credentialed person, or adverse action
9 by an insurance company affecting professional liability coverage.
10 The department may define by rule and regulation what constitutes
11 a settlement that would be reportable when a credentialed person
12 refunds or reduces a fee or makes no charge for reasons related to
13 a patient or client complaint other than costs;

14 (iv) Denial of a credential or other form of
15 authorization to practice by any state, territory, or jurisdiction,
16 including any military or federal jurisdiction, due to alleged
17 incompetence, negligence, unethical or unprofessional conduct, or
18 physical, mental, or chemical impairment;

19 (v) Disciplinary action against any credential or other
20 form of permit he or she holds taken by another state, territory,
21 or jurisdiction, including any federal or military jurisdiction,
22 the settlement of such action, or any voluntary surrender of or
23 limitation on any such credential or other form of permit;

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

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

4 (5) A report submitted by a professional liability
5 insurance company on behalf of a credentialed person shall
6 be sufficient to satisfy the credentialed person's reporting
7 requirement under subsection (4) of this section.

8 (6) A report made to the department under this section
9 shall be confidential and treated in the same manner as complaints
10 and investigative files under subsection (7) of section 71-168.01.
11 Any person making a report to the department under this section
12 except those self-reporting shall be completely immune from
13 criminal or civil liability of any nature, whether direct or
14 derivative, for filing a report or for disclosure of documents,
15 records, or other information to the department under this section.
16 Persons who are members of committees established under the Patient
17 Safety Improvement Act and sections 25-12,123, 71-2046 to 71-2048,
18 and 71-7901 to 71-7903 or witnesses before such committees shall
19 not be required to report such activities. Any person who is a
20 witness before a committee established under such sections shall
21 not be excused from reporting matters of first-hand knowledge that
22 would otherwise be reportable under this section only because he
23 or she attended or testified before such committee. Documents from
24 original sources shall not be construed as immune from discovery or
25 use in actions under subsection (4) of this section.

26 Sec. 8. Sections 8 to 19 of this act shall be known and
27 may be cited as the Perfusion Practice Act.

1 Sec. 9. The Legislature finds and declares that the
2 public interest requires the regulation of the practice of
3 perfusion and the establishment of clear licensure standards for
4 perfusionists and that the health and welfare of the residents
5 of the State of Nebraska will be protected by identifying to the
6 public those individuals who are qualified and legally authorized
7 to practice perfusion.

8 Sec. 10. For purposes of the Perfusion Practice Act:

9 (1) Board means the Board of Medicine and Surgery;

10 (2) Committee means the Perfusionist Committee created
11 under section 19 of this act;

12 (3) Extracorporeal circulation means the diversion of a
13 patient's blood through a heart-lung machine or a similar device
14 that assumes the functions of the patient's heart, lungs, kidney,
15 liver, or other organs;

16 (4) Perfusion means the functions necessary for the
17 support, treatment, measurement, or supplementation of the
18 cardiovascular, circulatory, and respiratory systems or other
19 organs, or a combination of such activities, and to ensure the safe
20 management of physiologic functions by monitoring and analyzing the
21 parameters of the systems under an order and under the supervision
22 of a licensed physician, including:

23 (a) The use of extracorporeal circulation, long-term
24 cardiopulmonary support techniques including extracorporeal carbon
25 dioxide removal and extracorporeal membrane oxygenation, and
26 associated therapeutic and diagnostic technologies;

27 (b) Counterpulsation, ventricular assistance,

1 autotransfusion, blood conservation techniques, myocardial and
2 organ preservation, extracorporeal life support, and isolated limb
3 perfusion;

4 (c) The use of techniques involving blood management,
5 advanced life support, and other related functions; and

6 (d) In the performance of the acts described in
7 subdivisions (a) through (c) of this subdivision:

8 (i) The administration of:

9 (A) Pharmacological and therapeutic agents; and

10 (B) Blood products or anesthetic agents through the
11 extracorporeal circuit or through an intravenous line as ordered by
12 a physician;

13 (ii) The performance and use of:

14 (A) Anticoagulation monitoring and analysis;

15 (B) Physiologic monitoring and analysis;

16 (C) Blood gas and chemistry monitoring and analysis;

17 (D) Hematologic monitoring and analysis;

18 (E) Hypothermia and hyperthermia;

19 (F) Hemoconcentration and hemodilution; and

20 (G) Hemodialysis; and

21 (iii) The observation of signs and symptoms related to
22 perfusion services, the determination of whether the signs and
23 symptoms exhibit abnormal characteristics, and the implementation
24 of appropriate reporting, clinical perfusion protocols, or changes
25 in, or the initiation of, emergency procedures; and

26 (5) Perfusionist means a person who is licensed to
27 practice perfusion pursuant to the Perfusion Practice Act.

1 Sec. 11. After the effective date of this act, no
2 person shall practice perfusion, whether or not compensation is
3 received or expected, unless the person holds a license to practice
4 perfusion under the Perfusion Practice Act, except that nothing in
5 the act shall be construed to:

6 (1) Prohibit any person credentialed to practice under
7 any other law from engaging in the practice for which he or she is
8 credentialed;

9 (2) Prohibit any student enrolled in a bona fide
10 perfusion training program recognized by the board from performing
11 those duties which are necessary for the student's course of study,
12 if the duties are performed under the supervision and direction
13 of a perfusionist who is on duty and immediately available in the
14 assigned patient care area; or

15 (3) Prohibit any person from practicing perfusion within
16 the scope of his or her official duties when employed by an agency,
17 bureau, or division of the federal government, serving in the
18 Armed Forces or the Public Health Service of the United States, or
19 employed by the Veterans Administration.

20 Sec. 12. To be eligible to be licensed as a perfusionist,
21 an applicant shall fulfill the following requirements:

22 (1) Submit a complete application to the department as
23 required under the Uniform Licensing Law;

24 (2) Pay the fee established and collected as provided in
25 sections 71-162 to 71-162.05;

26 (3) Submit evidence of successful completion of a
27 perfusion education program with standards established by the

1 Accreditation Committee for Perfusion Education and approved by the
2 Commission on Accreditation of Allied Health Education Programs
3 or a program with substantially equivalent education standards
4 approved by the board; and

5 (4) Submit evidence of successful completion of the
6 certification examinations offered by the American Board of
7 Cardiovascular Perfusion, or its successor, or a substantially
8 equivalent examination approved by the board.

9 Sec. 13. The board may waive the education and
10 examination requirements under section 12 of this act for an
11 applicant who:

12 (1) Within one hundred eighty days after the effective
13 date of this act, submits evidence satisfactory to the board that
14 he or she has been operating cardiopulmonary bypass systems for
15 cardiac surgical patients as his or her primary function in a
16 licensed health care facility for at least two of the last ten
17 years prior to the effective date of this act;

18 (2) Submits evidence of holding a current certificate as
19 a Certified Clinical Perfusionist issued by the American Board of
20 Cardiovascular Perfusion, or its successor; or

21 (3) Submits evidence of holding a credential as a
22 perfusionist issued by another state or possession of the
23 United States or the District of Columbia which has standards
24 substantially equivalent to those of this state.

25 Sec. 14. The department shall issue a temporary license
26 to a person who has applied for licensure pursuant to the Perfusion
27 Practice Act and who, in the judgment of the department, with

1 the recommendation of the board, is eligible for examination. An
2 applicant with a temporary license may practice only under the
3 direct supervision of a perfusionist. The board may adopt and
4 promulgate rules and regulations governing such direct supervision
5 which do not require the immediate physical presence of the
6 supervising perfusionist. A temporary license shall expire one year
7 after the date of issuance and may be renewed for a subsequent
8 one-year period, subject to the rules and regulations adopted under
9 the act. A temporary license shall be surrendered to the department
10 upon its expiration.

11 Sec. 15. Each perfusionist shall, in the period since
12 his or her license was issued or last renewed, complete continuing
13 competency activities as required by the board pursuant to section
14 71-161.09 as a prerequisite for the licensee's next subsequent
15 license renewal.

16 Sec. 16. No person shall use the title Perfusionist, the
17 abbreviation LP, or any other title, designation, words, letters,
18 abbreviations, or insignia indicating the practice of perfusion
19 unless licensed to practice perfusion.

20 Sec. 17. The department, with the recommendation of the
21 board, shall adopt and promulgate rules and regulations to carry
22 out the Perfusion Practice Act.

23 Sec. 18. The board shall adopt and publish a code
24 of ethics for perfusionists and maintain a record of every
25 perfusionist licensed in this state which includes his or her
26 place of business, place of residence, and license date and number.

27 Sec. 19. (1) There is created the Perfusionist Committee

1 which shall review and make recommendations to the board regarding
2 all matters relating to perfusionists that come before the board.
3 Such matters shall include, but not be limited to, (a) applications
4 for licensure, (b) perfusionist education, (c) scope of practice,
5 (d) proceedings arising relating to disciplinary actions, (e)
6 perfusionist licensure requirements, and (f) continuing competency.
7 The committee shall be directly responsible to the board.

8 (2) The committee shall be appointed by the State Board
9 of Health and shall be composed of two perfusionists and one
10 physician who has clinical experience with perfusionists. The
11 physician member may also be a member of the Board of Medicine and
12 Surgery. The chairperson of the committee shall be elected by a
13 majority vote of the committee members. All appointments shall be
14 for five-year terms, at staggered intervals. Members shall serve no
15 more than two consecutive terms. Reappointments shall be made by
16 the State Board of Health.

17 (3) The committee shall meet on a regular basis, and
18 committee members shall, in addition to necessary traveling and
19 lodging expenses, receive a per diem for each day actually engaged
20 in the discharge of his or her duties, including compensation for
21 the time spent in traveling to and from the place of conducting
22 business. Traveling and lodging expenses shall be reimbursed on
23 the same basis as provided in sections 81-1174 to 81-1177. The
24 compensation shall not exceed fifty dollars per day and shall be
25 determined by the committee with the approval of the department.

26 Sec. 20. Section 71-1,133, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-1,133 For purposes of the Uniform Licensing Law, the
2 practice of optometry means one or a combination of the following:
3 ~~7 without the use of surgery.~~

4 (1) The examination of the human eye to diagnose, treat,
5 or refer for consultation or treatment any abnormal condition of
6 the human eye, ocular adnexa, or visual system;

7 (2) The employment of instruments, devices,
8 pharmaceutical agents, ~~other than oral therapeutic agents used in~~
9 ~~the treatment of glaucoma,~~ and procedures intended for the purpose
10 of investigating, examining, diagnosing, treating, managing, or
11 correcting visual defects or abnormal conditions of the human eye,
12 ocular adnexa, or visual system; ~~or for the removal of superficial~~
13 ~~eyelid,~~ ~~conjunctival,~~ ~~and corneal foreign bodies and the ordering~~
14 ~~of procedures and laboratory tests rational to the diagnosis of~~
15 ~~conditions or diseases of the human eye,~~ ~~ocular adnexa,~~ ~~or visual~~
16 ~~system;~~ ~~or~~

17 (3) The prescribing and application of lenses,
18 devices containing lenses, prisms, contact lenses, ophthalmic
19 devices, ~~excluding laser surgery,~~ orthoptics, vision training,
20 pharmaceutical agents, and prosthetic devices to correct, relieve,
21 or treat defects or abnormal conditions of the human eye, ocular
22 adnexa, or visual system; ~~or~~

23 (4) The ordering of procedures and laboratory tests
24 rational to the diagnosis or treatment of conditions or diseases of
25 the human eye, ocular adnexa, or visual system; and

26 (5) The removal of superficial eyelid, conjunctival, and
27 corneal foreign bodies.

1 The practice of optometry does not include the use
2 of surgery, laser surgery, oral therapeutic agents used in the
3 treatment of glaucoma, oral steroids, or oral immunosuppressive
4 agents or the treatment of infantile/congenital glaucoma, which
5 means the condition is present at birth.

6 Sec. 21. Section 71-1,134, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-1,134 The practice of optometry ~~under sections~~
9 ~~71-1,133 to 71-1,136.09~~ shall not be construed to:

10 (1) Include merchants or dealers who sell glasses as
11 merchandise in an established place of business or who sell
12 contact lenses from a prescription for contact lenses written by an
13 optometrist or a person licensed to practice medicine and surgery
14 and who do not profess to be optometrists or practice optometry; ~~as~~
15 ~~defined in section 71-1,133;~~

16 (2) Restrict, expand, or otherwise alter the scope of
17 practice governed by other statutes; or

18 (3) Include the performance by an optometric assistant,
19 under the supervision of a licensed optometrist, of duties
20 prescribed in accordance with rules and regulations adopted and
21 promulgated by the department, with the ~~upon~~ recommendation of the
22 Board of Optometry.

23 Sec. 22. Section 71-1,135, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-1,135 Every applicant for a license to practice
26 optometry shall: (1) Present proof that he or she is a graduate
27 of an accredited school or college of optometry; and (2) pass an

1 examination approved by the Board of Optometry. ~~After August 25,~~
2 ~~1989,~~ the The examination shall cover all subject matter included
3 in the practice of optometry, ~~as defined in section 71-1,133 for~~
4 ~~applicants who have graduated from an accredited optometry school~~
5 ~~after such date.~~ After October 1, 1997, the examination shall
6 cover all subject matter included in the practice of optometry for
7 applicants who have graduated from an accredited optometry school
8 after such date.

9 Sec. 23. Section 71-1,135.02, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1,135.02 ~~(1)(a)~~ Ne (1) An optometrist licensed in
12 this state, ~~except an optometrist who has been certified by~~
13 ~~the department prior to April 30, 1987, or by another state~~
14 ~~with substantially equivalent requirements for certification as~~
15 ~~determined by the department upon recommendation of the Board~~
16 ~~of Optometry to use topical ocular pharmaceutical agents for~~
17 ~~diagnostic purposes prior to April 30, 1987, shall may use topical~~
18 ocular pharmaceutical agents for diagnostic purposes authorized
19 under subdivision (2) of section 71-1,133 ~~unless if such person (i)~~
20 submits to the ~~board~~ department the required fee and evidence of is
21 certified by the department, with the recommendation of the Board
22 of Optometry, as qualified to use topical ocular pharmaceutical
23 agents for diagnostic purposes. Such certification shall require
24 (a) satisfactory completion of a pharmacology course at an
25 institution accredited by a regional or professional accrediting
26 organization which is recognized by the United States Department
27 of Education and approved by the ~~Department of Health and Human~~

1 ~~Services Regulation and Licensure, (ii) passes board and passage~~
2 ~~of an examination approved by the department, and (iii) has~~
3 ~~been certified by the department upon the recommendation of the~~
4 ~~board as qualified to use topical ocular pharmaceutical agents~~
5 ~~for diagnostic purposes. board or (b) evidence provided by the~~
6 ~~optometrist of certification in another state for use of diagnostic~~
7 ~~pharmaceutical agents which is deemed by the board as satisfactory~~
8 ~~validation of such qualifications.~~

9 ~~(b) The department may approve for certification pursuant~~
10 ~~to subdivision (1)(a)(i) of this section a pharmacology course if~~
11 ~~such course includes:~~

12 ~~(i) A study of ocular anesthetics, mydriatics,~~
13 ~~cycloplegics, ocular toxicity of pharmaceutical agents, ocular~~
14 ~~allergies of ocular agents, and pharmacologic effects of ocular~~
15 ~~drug substances;~~

16 ~~(ii) The consideration of the mechanism of action of~~
17 ~~anesthetics, cycloplegics, and mydriatics in human beings and the~~
18 ~~uses of such substances in the diagnosis of occurring ocular~~
19 ~~disorders;~~

20 ~~(iii) At least one hundred hours of classroom education,~~
21 ~~clinical training, and examination; and~~

22 ~~(iv) The correlation of the utilization of pharmaceutical~~
23 ~~agents and optical instrumentation and procedures.~~

24 ~~(c) The department may approve for certification pursuant~~
25 ~~to subdivision (1)(a)(ii) of this section an examination if such~~
26 ~~examination is:~~

27 ~~(i) Based upon the competencies taught in a pharmacology~~

1 ~~course, and~~

2 ~~(ii) Administered by an institution accredited by~~
3 ~~a regional or professional accrediting organization which is~~
4 ~~recognized by the United States Department of Education and~~
5 ~~approved by the Department of Health and Human Services Regulation~~
6 ~~and Licensure.~~

7 ~~(2)(a) No (2) An optometrist licensed in this state on or~~
8 ~~after April 30, 1987, shall may use topical ocular pharmaceutical~~
9 ~~agents for therapeutic purposes authorized under subdivision (2) or~~
10 ~~(3) of section 71-1,133 unless if such person (i) submits to the~~
11 ~~board department the required fee and evidence of is certified by~~
12 ~~the department, with the recommendation of the Board of Optometry,~~
13 ~~as qualified to use ocular pharmaceutical agents for therapeutic~~
14 ~~purposes, including the treatment of glaucoma. Such certification~~
15 ~~shall require (a) satisfactory completion of a minimum of one~~
16 ~~hundred hours since January 1, 1984, of which forty hours shall be~~
17 ~~classroom education and sixty hours shall be supervised clinical~~
18 ~~training as it applies to optometry with particular emphasis on~~
19 ~~which emphasizes the examination, diagnosis, and treatment of~~
20 ~~the eye, ocular adnexa, and visual system offered by a school~~
21 ~~or college approved by the department, (ii) passes board and~~
22 ~~passage of an examination approved by the department, (iii) has~~
23 ~~been certified by the department upon the recommendation of the~~
24 ~~board to use topical ocular pharmaceutical agents for therapeutic~~
25 ~~purposes, and (iv) has been certified by the department upon the~~
26 ~~recommendation of the board to use topical ocular pharmaceutical~~
27 ~~agents for diagnostic purposes. board or (b) evidence provided by~~

1 the optometrist of certification in another state for the use of
2 therapeutic pharmaceutical agents which is deemed by the board as
3 satisfactory validation of such qualifications.

4 ~~(b) The department may approve for certification pursuant~~
5 ~~to subdivision (2)(a)(i) of this section a therapeutic course~~
6 ~~or courses of instruction, from an institution accredited by~~
7 ~~a regional or professional accrediting organization which is~~
8 ~~recognized by the United States Department of Education, that~~
9 ~~have been completed after January 1, 1984. Such course or courses~~
10 ~~shall include, but not be limited to:~~

11 ~~(i) Review of general pharmacology and therapeutics;~~

12 ~~(ii) Review of ocular therapeutic pharmacology;~~

13 ~~(iii) Diagnosis and treatment of diseases of the eye,~~
14 ~~ocular adnexa, and visual system;~~

15 ~~(iv) Diagnosis of corneal disease and trauma including~~
16 ~~corneal foreign bodies;~~

17 ~~(v) Diagnosis and treatment of anterior segment eye~~
18 ~~diseases;~~

19 ~~(vi) Clinical procedures related to the diagnosis and~~
20 ~~treatment of the eye, ocular adnexa, and visual system;~~

21 ~~(vii) Ocular manifestations of systemic disease;~~

22 ~~(viii) Review of systemic disease syndromes;~~

23 ~~(ix) Ocular therapy including management of acute~~
24 ~~systemic emergencies; and~~

25 ~~(x) Consultation criteria in ocular disease and trauma.~~

26 ~~(3)(a) An optometrist who is licensed and certified to~~
27 ~~use pharmaceutical agents for therapeutic purposes on July 15,~~

1 1998~~7~~ who graduated from an accredited school of optometry prior
2 to January 1~~7~~ 1996~~7~~ shall complete the educational requirements
3 relative to the treatment of glaucoma~~7~~ as determined by the board~~7~~
4 prior to January 1~~7~~ 2000~~7~~ and shall complete such educational
5 requirements prior to treating glaucoma. Failure to complete such
6 education prior to January 1~~7~~ 2000~~7~~ shall result in the revocation
7 of the licensee's certification to use pharmaceutical agents for
8 therapeutic purposes.

9 (b) An optometrist who applies for licensure on or
10 after July 15~~7~~ 1998~~7~~ who graduated from an accredited school
11 of optometry prior to January 1~~7~~ 1996~~7~~ shall complete the
12 educational requirements relative to the treatment of glaucoma~~7~~
13 as determined by the board~~7~~ prior to being issued a license to
14 practice optometry.

15 (c) An optometrist who graduated from an accredited
16 school of optometry after January 1~~7~~ 1996~~7~~ shall be deemed to
17 have met the educational requirements for certification to use
18 pharmaceutical agents for therapeutic purposes which includes the
19 treatment and management of glaucoma.

20 (3) After January 1, 2000, only an optometrist licensed
21 in this state prior to April 30, 1987, may practice optometry
22 without meeting the requirements and obtaining certification
23 required by subsections (1) and (2) of this section.

24 Sec. 24. Section 71-1,135.04, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-1,135.04 In issuing a license or renewal, the Board of
27 Optometry shall state whether such person licensed in the practice

1 of optometry has been certified to use pharmaceutical agents
2 pursuant to section 71-1,135.02 and shall determine an appropriate
3 means to further identify those persons who are certified in the
4 diagnostic use of such agents as provided in subdivision (2) of
5 section 71-1,133 or the therapeutic use of such agents, as provided
6 in subdivision (2) or (3) of section 71-1,133.

7 Sec. 25. Section 71-1,135.06, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-1,135.06 (1) A licensed optometrist who administers or
10 prescribes pharmaceutical agents for examination or for treatment
11 shall provide the same standard of care to patients as that
12 provided by a physician licensed in this state to practice
13 medicine and surgery utilizing the same pharmaceutical agents
14 for examination or treatment.

15 (2) A licensed optometrist who administers or prescribes
16 pharmaceutical agents for the treatment of glaucoma shall provide
17 the same standard of care to patients as that provided by a
18 physician licensed in this state to practice medicine and surgery
19 utilizing the same pharmaceutical agents for the examination and
20 treatment of glaucoma.

21 Sec. 26. Section 71-1,136, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-1,136 No school of optometry shall be approved by the
24 Department of Health and Human Services Regulation and Licensure
25 Board of Optometry as an accredited school unless the school is
26 accredited by a regional or professional accrediting organization
27 which is recognized by the United States Department of Education.

1 Sec. 27. Section 71-1,136.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1,136.01 Each Nebraska-licensed optometrist in active
4 practice within the State of Nebraska shall, on or before August
5 1 of each even-numbered year, complete continuing competency
6 activities as required by the Board of Optometry pursuant to
7 section 71-161.09 as a prerequisite for the licensee's next
8 subsequent license renewal. In addition to circumstances determined
9 by the department to be beyond the credential holder's control
10 pursuant to section 71-161.10, such circumstances shall include
11 situations in which the credential holder was initially licensed
12 within the twenty-six months immediately preceding the renewal
13 date.

14 Sec. 28. Section 71-1,136.04, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-1,136.04 No agencies of the state or its subdivisions
17 administering relief, public assistance, public welfare assistance,
18 or other health service under the laws of this state, including
19 the public schools, shall in the performance of their duties,
20 interfere with any patient's freedom of choice in the selection of
21 practitioners licensed to perform examinations ~~for refractions or~~
22 ~~corrections~~ and provide treatment within the field for which their
23 respective licenses entitle them to practice.

24 Sec. 29. Section 71-1,142, Revised Statutes Cumulative
25 Supplement, 2006, as amended by section 344, Legislative Bill 296,
26 One Hundredth Legislature, First Session, 2007, is amended to read:

27 71-1,142 For purposes of sections 71-1,142 to 71-1,151

1 and sections 31 to 38 of this act and elsewhere in the Uniform
2 Licensing Law, unless the context otherwise requires:

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

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

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

22 (4) Board means the Board of Pharmacy;

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

25 (6) Chart order means an order for a drug or device
26 issued by a practitioner for a patient who is in the hospital
27 where the chart is stored or for a patient receiving detoxification

1 treatment or maintenance treatment pursuant to section 28-412.

2 Chart order does not include a prescription;

3 (7) Compounding means the preparation of components into
4 a drug product (a) as the result of a practitioner's medical order
5 or initiative occurring in the course of practice based upon the
6 relationship between the practitioner, patient, and pharmacist or
7 (b) for the purpose of, or as an incident to, research, teaching,
8 or chemical analysis and not for sale or dispensing. Compounding
9 includes the preparation of drugs or devices in anticipation of
10 receiving medical orders based upon routine, regularly observed
11 prescribing patterns;

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

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

22 (10) Department means the Division of Public Health of
23 the Department of Health and Human Services;

24 (11) Device means an instrument, apparatus, implement,
25 machine, contrivance, implant, in vitro reagent, or other similar
26 or related article, including any component, part, or accessory,
27 which is prescribed by a practitioner and dispensed by a pharmacist

1 or other person authorized by law to do so;

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

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

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

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

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

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

27 (18) Person means an individual, corporation,

1 partnership, limited liability company, association, or other legal
2 entity;

3 (19) Labeling means the process of preparing and affixing
4 a label to any drug container or device container, exclusive
5 of the labeling by a manufacturer, packer, or distributor of
6 a nonprescription drug or commercially packaged legend drug or
7 device. Any such label shall include all information required by
8 federal and state law or regulation;

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

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

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

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

25 (24) Drugs, medicines, and medicinal substances means (a)
26 articles recognized in the official United States Pharmacopoeia,
27 the Homeopathic Pharmacopoeia of the United States, the official

1 National Formulary, or any supplement to any of them, (b) articles
2 intended for use in the diagnosis, cure, mitigation, treatment, or
3 prevention of diseases in humans or animals, (c) articles, except
4 food, intended to affect the structure or any function of the
5 body of a human or an animal, (d) articles intended for use as a
6 component of any articles specified in subdivision (a), (b), or (c)
7 of this subdivision, except any device or its components, parts, or
8 accessories, and (e) prescription drugs or devices as defined in
9 subdivision (31) of this section;

10 (25) Patient counseling means the verbal communication
11 by a pharmacist, pharmacist intern, or practitioner, in a manner
12 reflecting dignity and the right of the patient to a reasonable
13 degree of privacy, of information to the patient or caregiver in
14 order to improve therapeutic outcomes by maximizing proper use of
15 prescription drugs and devices and also includes the duties set out
16 in section 71-1,147.35;

17 (26) Pharmacist in charge means a pharmacist who is
18 designated on a pharmacy license or designated by a hospital as
19 being responsible for the practice of pharmacy in the pharmacy
20 for which a pharmacy license is issued and who works within the
21 physical confines of such pharmacy for a majority of the hours
22 per week that the pharmacy is open for business averaged over a
23 twelve-month period or thirty hours per week, whichever is less;

24 (27) Pharmacist intern means a person who meets the
25 requirements of section 71-1,144;

26 (28) Pharmacy technician means an individual at least
27 eighteen years of age who is a high school graduate or officially

1 recognized by the State Department of Education as possessing the
2 equivalent degree of education, who has never been convicted of
3 any drug-related misdemeanor or felony, and who, under the written
4 control procedures and guidelines of an employing pharmacy, may
5 perform those functions which do not require professional judgment
6 and which are subject to verification to assist a pharmacist in the
7 practice of pharmacy, registered under sections 31 to 38 of this
8 act;

9 (29) Practitioner means a certified registered nurse
10 anesthetist, a certified nurse midwife, a dentist, an optometrist,
11 a nurse practitioner, a physician assistant, a physician, a
12 podiatrist, or a veterinarian;

13 (30) Prescribe means to issue a medical order;

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

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

1 (33) Nonprescription drugs means nonnarcotic medicines or
2 drugs which may be sold without a medical order and which are
3 prepackaged for use by the consumer and labeled in accordance with
4 the requirements of the laws and regulations of this state and the
5 federal government;

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

11 (35) Public health clinic means the department, any
12 county, city-county, or multicounty health department, or any
13 private not-for-profit family planning clinic licensed as a health
14 clinic as defined in section 71-416;

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

19 (37) Supervision means the immediate personal guidance
20 and direction by the licensed pharmacist on duty in the facility of
21 the performance by a pharmacy technician of authorized activities
22 or functions subject to verification by such pharmacist, except
23 that when a pharmacy technician performs authorized activities or
24 functions to assist a pharmacist on duty in the facility when the
25 prescribed drugs or devices will be administered by a licensed
26 staff member or consultant or by a licensed physician assistant to
27 persons who are patients or residents of a facility, the activities

1 or functions of such pharmacy technician shall only be subject to
2 verification by a pharmacist on duty in the facility;

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

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

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

21 (41) Facsimile means a copy generated by a system that
22 encodes a document or photograph into electrical signals, transmits
23 those signals over telecommunications lines, and reconstructs the
24 signals to create an exact duplicate of the original document at
25 the receiving end;

26 (42) Electronic signature has the same definition found
27 in section 86-621; and

1 (43) Electronic transmission means transmission of
2 information in electronic form. Electronic transmission may
3 include computer-to-computer transmission or computer-to-facsimile
4 transmission.

5 Sec. 30. Section 71-1,147, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-1,147 (1) Except as provided for pharmacy technicians
8 in ~~section 71-1,147.33~~ sections 31 to 38 of this act and for
9 individuals authorized to dispense under a delegated dispensing
10 permit, no person other than a licensed pharmacist, a pharmacist
11 intern, or a practitioner with a pharmacy license shall provide
12 pharmaceutical care, compound and dispense drugs or devices, or
13 dispense pursuant to a medical order. Notwithstanding any other
14 provision of law to the contrary, a pharmacist or pharmacist intern
15 may dispense drugs or devices pursuant to a medical order of
16 a practitioner authorized to prescribe in another state if such
17 practitioner could be authorized to prescribe such drugs or devices
18 in this state.

19 (2) Except as provided for pharmacy technicians in
20 ~~section 71-1,147.33~~ sections 31 to 38 of this act and for
21 individuals authorized to dispense under a delegated dispensing
22 permit, it shall be unlawful for any person to permit or direct a
23 person who is not a pharmacist intern, a licensed pharmacist, or
24 a practitioner with a pharmacy license to provide pharmaceutical
25 care, compound and dispense drugs or devices, or dispense pursuant
26 to a medical order.

27 (3) It shall be unlawful for any person to coerce

1 or attempt to coerce a pharmacist to enter into a delegated
2 dispensing agreement or to supervise any pharmacy technician for
3 any purpose or in any manner contrary to the professional judgment
4 of the pharmacist. Violation of this subsection by a health care
5 professional regulated pursuant to the provisions of Chapter 71
6 shall be considered an act of unprofessional conduct. A violation
7 of this subsection by a facility shall be prima facie evidence
8 in an action against the license of the facility pursuant to the
9 Health Care Facility Licensure Act. Any pharmacist subjected to
10 coercion or attempted coercion pursuant to this subsection has a
11 cause of action against the person and may recover his or her
12 damages and reasonable attorney's fees.

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

15 Sec. 31. (1) All pharmacy technicians employed by a
16 facility licensed under the Health Care Facility Licensure Act
17 shall be registered with the Pharmacy Technician Registry created
18 in section 34 of this act.

19 (2) To register as a pharmacy technician, an individual
20 shall (a) be at least eighteen years of age, (b) be a high
21 school graduate or be officially recognized by the State Department
22 of Education as possessing the equivalent degree of education,
23 (c) have never been convicted of any nonalcohol, drug-related
24 misdemeanor or felony, (d) file an application with the department,
25 and (e) pay the applicable fee.

26 (3) A pharmacy technician shall apply for registration
27 as provided in this section within thirty days after being hired

1 by a pharmacy or facility. Pharmacy technicians employed in that
2 capacity on the effective date of this act shall apply for
3 registration within thirty days after the effective date of this
4 act.

5 Sec. 32. (1) A pharmacy technician shall only perform
6 tasks which do not require professional judgment and which are
7 subject to verification to assist a pharmacist in the practice of
8 pharmacy.

9 (2) The functions and tasks which shall not be performed
10 by pharmacy technicians include, but are not limited to:

11 (a) Receiving oral medical orders from a practitioner or
12 his or her agent;

13 (b) Providing patient counseling;

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

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

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

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

23 (g) Performing any professional consultations; and

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

27 (3) The director shall, with the recommendation of the

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

10 Sec. 33. (1) A pharmacy employing pharmacy technicians
11 shall be responsible for the supervision and performance of the
12 pharmacy technicians.

13 (2) The pharmacist in charge shall be responsible
14 for the practice of pharmacy and the establishment of written
15 control procedures and guidelines governing the qualifications,
16 onsite training, functions, supervision, and verification of the
17 performance of pharmacy technicians. The supervision of such
18 technicians at the place of employment shall be performed by
19 the licensed pharmacist who is on duty in the facility with the
20 pharmacy technicians.

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

26 (i) Basic pharmaceutical nomenclature;

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

1 (iii) The meaning and use of Roman numerals;

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

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

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

8 (vii) Applicable statutes, rules, and regulations
9 governing the preparation, compounding, dispensing, and
10 distribution of drugs or devices, record keeping with regard to
11 such functions, and the employment, use, and functions of pharmacy
12 technicians; and

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

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

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

25 (4) Each pharmacy or facility shall, before using
26 pharmacy technicians, file with the board a copy of its written
27 control procedures and guidelines and receive approval of its

1 written control procedures and guidelines from the board. The
2 board shall, within ninety days after the filing of such written
3 control procedures and guidelines, review and either approve or
4 disapprove them. The board shall notify the pharmacy or facility
5 of the approval or disapproval. The board or its representatives
6 shall have access to the approved written control procedures
7 and guidelines upon request. Any written control procedures and
8 guidelines for supportive pharmacy personnel that were filed by a
9 pharmacy and approved by the board prior to the effective date of
10 this act shall be deemed to be approved and to apply to pharmacy
11 technicians.

12 Sec. 34. (1) The Pharmacy Technician Registry is created.
13 The department shall list each pharmacy technician registration in
14 the registry. A listing in the registry shall be valid for the term
15 of the registration and upon renewal unless such listing is refused
16 renewal or is removed as provided in section 35 of this act.

17 (2) The registry shall contain the following information
18 on each individual who meets the conditions set out in section
19 31 of this act: (a) The individual's full name; (b) information
20 necessary to identify the individual; (c) any conviction of a
21 nonalcohol, drug-related felony or misdemeanor reported to the
22 department; and (d) any other information as the department may
23 require by rule and regulation.

24 Sec. 35. (1) A registration to practice as a pharmacy
25 technician may be denied, refused renewal, removed, or suspended
26 or have other disciplinary measures taken against it by the
27 department, with the recommendation of the board, for failure to

1 meet the requirements of or for violation of sections 31 to 38 of
2 this act or the rules and regulations adopted under such sections.

3 (2) If the department proposes to deny, refuse renewal
4 of, or remove or suspend a registration, it shall send the
5 applicant or registrant a notice setting forth the action to be
6 taken and the reasons for the determination. The denial, refusal to
7 renew, removal, or suspension shall become final thirty days after
8 mailing the notice unless the applicant or registrant gives written
9 notice to the department of his or her desire for an informal
10 conference or for a formal hearing.

11 (3) Notice may be served by any method specified in
12 section 25-505.01, or the department may permit substitute or
13 constructive service as provided in section 25-517.02 when service
14 cannot be made with reasonable diligence by any of the methods
15 specified in section 25-505.01.

16 (4) Pharmacy technicians may participate in the Licensee
17 Assistance Program described in section 71-172.01.

18 Sec. 36. (1) If a pharmacy technician performs
19 functions requiring professional judgment and licensure as a
20 pharmacist, performs functions not specified under approved written
21 control procedures and guidelines, or performs functions without
22 supervision and such acts are known to the pharmacist supervising
23 the pharmacy technician or the pharmacist in charge or are of such
24 a nature that they should have been known to a reasonable person,
25 such acts may be considered acts of unprofessional conduct on the
26 part of the pharmacist supervising the pharmacy technician or the
27 pharmacist in charge pursuant to section 71-147, and disciplinary

1 measures may be taken against such pharmacist supervising the
2 pharmacy technician or the pharmacist in charge pursuant to the
3 Uniform Licensing Law.

4 (2) Acts described in subsection (1) of this section
5 may be grounds for the department, with the recommendation of the
6 board, to apply to the district court in the judicial district in
7 which the pharmacy is located for an order to cease and desist
8 from the performance of any unauthorized acts. On or at any time
9 after such application the court may, in its discretion, issue an
10 order restraining such pharmacy or its agents or employees from the
11 performance of unauthorized acts. After a hearing the court shall
12 either grant or deny the application. Such order shall continue
13 until the court, after a hearing, finds the basis for such order
14 has been removed.

15 Sec. 37. A person whose registration has been denied,
16 refused renewal, removed, or suspended from the Pharmacy Technician
17 Registry may reapply for registration or for lifting of the
18 disciplinary sanction at any time in accordance with the rules and
19 regulations adopted and promulgated by the department.

20 Sec. 38. A pharmacy technician shall report first-hand
21 knowledge of facts giving him or her reason to believe that
22 any person in his or her profession, or any person in another
23 profession under the regulatory provisions of the department, may
24 be practicing while his or her ability to practice is impaired by
25 alcohol, controlled substances, or narcotic drugs. A report made
26 to the department under this section shall be confidential. Any
27 person making a report to the department under this section, except

1 for those self-reporting, shall be completely immune from criminal
2 or civil liability of any nature, whether direct or derivative,
3 for filing a report or for disclosure of documents, records,
4 or other information to the department under this section. The
5 immunity granted by this section shall not apply to any person
6 causing damage or injury by his or her willful, wanton, or grossly
7 negligent act of commission or omission.

8 Sec. 45. If any section in this act or any part of any
9 section is declared invalid or unconstitutional, the declaration
10 shall not affect the validity or constitutionality of the remaining
11 portions.

12 Sec. 46. Original sections 71-1,133, 71-1,134, 71-1,135,
13 71-1,135.02, 71-1,135.04, 71-1,135.06, 71-1,136, 71-1,136.01,
14 71-1,136.04, and 71-1,147, Reissue Revised Statutes of Nebraska,
15 sections 71-107, 71-110, 71-112, 71-162, and 71-168, Revised
16 Statutes Cumulative Supplement, 2006, and sections 71-101, 71-102,
17 and 71-1,142, Revised Statutes Cumulative Supplement, 2006, as
18 amended by sections 296, 297, and 344, respectively, Legislative
19 Bill 296, One Hundredth Legislature, First Session, 2007, are
20 repealed.

21 Sec. 47. The following sections are outright repealed:
22 Sections 71-1,135.03, 71-1,135.05, and 71-1,147.34, Reissue Revised
23 Statutes of Nebraska, and section 71-1,147.33, Revised Statutes
24 Cumulative Supplement, 2006.

25 2. Renumber the remaining sections and correct the
26 internal references and repealer accordingly.