Introduced by Albrecht, 17; at the request of the Governor.

Read first time January 12, 2017

Committee: Health and Human Services

A BILL FOR AN ACT relating to public health and welfare; to amend sections 28-401, 38-319, 38-321, 38-2104, 38-2117, 38-2122, 38-2123, 38-2124, 38-2125, 38-2826.01, 44-772, 44-776, 44-777, 44-793, 71-423, and 71-430, Reissue Revised Statutes of Nebraska, and sections 68-1017.02, 71-401, 71-403, 71-413, 71-2411, 71-2445, and 77-2704.12, Revised Statutes Cumulative Supplement, 2016; to change credentialing provisions relating to mental health and substance use disorders under the Health Care Facility Licensure Act and the Uniform Credentialing Act; to provide for mental health substance abuse centers; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 28-401, Reissue Revised Statutes of Nebraska, is amended to read:

28-401 As used in the Uniform Controlled Substances Act, unless the context otherwise requires:

(1) Administer means to directly apply a controlled substance by injection, inhalation, ingestion, or any other means to the body of a patient or research subject;

(2) Agent means an authorized person who acts on behalf of or at the direction of another person but does not include a common or contract carrier, public warehouse keeper, or employee of a carrier or warehouse keeper;

(3) Administration means the Drug Enforcement Administration of the United States Department of Justice;

(4) Controlled substance means a drug, biological, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance does not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2014, and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

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

(7) Division of Drug Control means the personnel of the Nebraska State Patrol who are assigned to enforce the Uniform Controlled
Substances Act;

(8) Dispense means to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery;

(9) Distribute means to deliver other than by administering or dispensing a controlled substance;

(10) Prescribe means to issue a medical order;

(11) Drug means (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them, (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals, and (c) substances intended for use as a component of any article specified in subdivision (a) or (b) of this subdivision, but does not include devices or their components, parts, or accessories;

(12) Deliver or delivery means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(13) Marijuana means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, but does not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, the sterilized seed of such plant which is incapable of germination, or cannabidiol obtained pursuant to sections 28-463 to 28-468. When the weight of marijuana is referred to in the Uniform Controlled Substances Act, it means its weight at or about

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the time it is seized or otherwise comes into the possession of law
enforcement authorities, whether cured or uncured at that time. When
industrial hemp as defined in section 2-5701 is in the possession of a
person as authorized under section 2-5701, it is not considered marijuana
for purposes of the Uniform Controlled Substances Act;

(14) Manufacture means the production, preparation, propagation,
conversion, or processing of a controlled substance, either directly or
indirectly, by extraction from substances of natural origin,
individually by means of chemical synthesis, or by a combination of
extraction and chemical synthesis, and includes any packaging or
repackaging of the substance or labeling or relabeling of its container.
Manufacture does not include the preparation or compounding of a
controlled substance by an individual for his or her own use, except for
the preparation or compounding of components or ingredients used for or
intended to be used for the manufacture of methamphetamine, or the
preparation, compounding, conversion, packaging, or labeling of a
controlled substance: (a) By a practitioner as an incident to his or her
prescribing, administering, or dispensing of a controlled substance in
the course of his or her professional practice; or (b) by a practitioner,
or by his or her authorized agent under his or her supervision, for the
purpose of, or as an incident to, research, teaching, or chemical
analysis and not for sale;

(15) Narcotic drug means any of the following, whether produced
directly or indirectly by extraction from substances of vegetable origin,
individually by means of chemical synthesis, or by a combination of
extraction and chemical synthesis: (a) Opium, opium poppy and poppy
straw, coca leaves, and opiates; (b) a compound, manufacture, salt,
derivative, or preparation of opium, coca leaves, or opiates; or (c) a
substance and any compound, manufacture, salt, derivative, or preparation
thereof which is chemically equivalent to or identical with any of the
substances referred to in subdivisions (a) and (b) of this subdivision,
except that the words narcotic drug as used in the Uniform Controlled
Substances Act does not include decocainized coca leaves or extracts of
coca leaves, which extracts do not contain cocaine or ecgonine, or
isoquinoline alkaloids of opium;

(16) Opiate means any substance having an addiction-forming or
addiction-sustaining liability similar to morphine or being capable of
conversion into a drug having such addiction-forming or addiction-
sustaining liability. Opiate does not include the dextrorotatory isomer
of 3-methoxy-3-methylmorphinan and its salts. Opiate includes its racemic
and levorotatory forms;

(17) Opium poppy means the plant of the species Papaver somniferum
L., except the seeds thereof;

(18) Poppy straw means all parts, except the seeds, of the opium
poppy after mowing;

(19) Person means any corporation, association, partnership, limited
liability company, or one or more persons;

(20) Practitioner means a physician, a physician assistant, a
dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a
certified nurse midwife, a certified registered nurse anesthetist, a
nurse practitioner, a scientific investigator, a pharmacy, a hospital, or
any other person licensed, registered, or otherwise permitted to
distribute, dispense, prescribe, conduct research with respect to, or
administer a controlled substance in the course of practice or research
in this state, including an emergency medical service as defined in
section 38-1207;

(21) Production includes the manufacture, planting, cultivation, or
harvesting of a controlled substance;

(22) Immediate precursor means a substance which is the principal
compound commonly used or produced primarily for use and which is an
immediate chemical intermediary used or likely to be used in the
manufacture of a controlled substance, the control of which is necessary
to prevent, curtail, or limit such manufacture;

(23) State means the State of Nebraska;

(24) Ultimate user means a person who lawfully possesses a
controlled substance for his or her own use, for the use of a member of
his or her household, or for administration to an animal owned by him or
her or by a member of his or her household;

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

(26) Cooperating individual means any person, other than a
commissioned law enforcement officer, who acts on behalf of, at the
request of, or as agent for a law enforcement agency for the purpose of
gathering or obtaining evidence of offenses punishable under the Uniform
Controlled Substances Act;

(27) Hashish or concentrated cannabis means (a) the separated resin,
whether crude or purified, obtained from a plant of the genus cannabis or
(b) any material, preparation, mixture, compound, or other substance
which contains ten percent or more by weight of tetrahydrocannabinols.
When resins extracted from industrial hemp as defined in section 2-5701
are in the possession of a person as authorized under section 2-5701,
they are not considered hashish or concentrated cannabis for purposes of
the Uniform Controlled Substances Act;

(28) Exceptionally hazardous drug means (a) a narcotic drug, (b)
thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital,
(e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h)
methamphetamine;

(29) Imitation controlled substance means a substance which is not a
controlled substance or controlled substance analogue but which, by way
of express or implied representations and consideration of other relevant
factors including those specified in section 28-445, would lead a
reasonable person to believe the substance is a controlled substance or
controlled substance analogue. A placebo or registered investigational
drug manufactured, distributed, possessed, or delivered in the ordinary
course of practice or research by a health care professional shall not be
deemed to be an imitation controlled substance;

(30)(a) Controlled substance analogue means a substance (i) the
chemical structure of which is substantially similar to the chemical
structure of a Schedule I or Schedule II controlled substance as provided
in section 28-405 or (ii) which has a stimulant, depressant, analgesic,
or hallucinogenic effect on the central nervous system that is
substantially similar to or greater than the stimulant, depressant,
algesic, or hallucinogenic effect on the central nervous system of a
Schedule I or Schedule II controlled substance as provided in section
28-405. A controlled substance analogue shall, to the extent intended for
human consumption, be treated as a controlled substance under Schedule I
of section 28-405 for purposes of the Uniform Controlled Substances Act;
and

(b) Controlled substance analogue does not include (i) a controlled
substance, (ii) any substance generally recognized as safe and effective
within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
301 et seq., as such act existed on January 1, 2014, (iii) any substance
for which there is an approved new drug application, or (iv) with respect
to a particular person, any substance if an exemption is in effect for
investigational use for that person, under section 505 of the Federal
Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on
January 1, 2014, to the extent conduct with respect to such substance is
pursuant to such exemption;

(31) Anabolic steroid means any drug or hormonal substance,
chemically and pharmacologically related to testosterone (other than
estrogens, progestins, and corticosteroids), that promotes muscle growth
and includes any controlled substance in Schedule III(d) of section
28-405. Anabolic steroid does not include any anabolic steroid which is
expressly intended for administration through implants to cattle or other
nonhuman species and has been approved by the Secretary of Health and
Human Services for such administration, but if any person prescribes, dispenses, or distributes such a steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision;

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

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

(34) Prescription means an order for a controlled substance issued by a practitioner. Prescription does not include a chart order;

(35) Registrant means any person who has a controlled substances registration issued by the state or the administration;

(36) Reverse distributor means a person whose primary function is to act as an agent for a pharmacy, wholesaler, manufacturer, or other entity by receiving, inventorying, and managing the disposition of outdated, expired, or otherwise nonsaleable controlled substances;

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

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

(39) Electronic signature has the definition found in section 86-621;

(40) Electronic transmission means transmission of information in electronic form. Electronic transmission includes computer-to-computer
transmission or computer-to-facsimile transmission;

(41) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

(42) Compounding has the same meaning as in section 38-2811;

(43) Cannabinoid receptor agonist shall mean any chemical compound or substance that, according to scientific or medical research, study, testing, or analysis, demonstrates the presence of binding activity at one or more of the CB1 or CB2 cell membrane receptors located within the human body; and

(44) Lookalike substance means a product or substance, not specifically designated as a controlled substance in section 28-405, that is either portrayed in such a manner by a person to lead another person to reasonably believe that it produces effects on the human body that replicate, mimic, or are intended to simulate the effects produced by a controlled substance or that possesses one or more of the following indicia or characteristics:

(a) The packaging or labeling of the product or substance suggests that the user will achieve euphoria, hallucination, mood enhancement, stimulation, or another effect on the human body that replicates or mimics those produced by a controlled substance;

(b) The name or packaging of the product or substance uses images or labels suggesting that it is a controlled substance or produces effects on the human body that replicate or mimic those produced by a controlled substance;

(c) The product or substance is marketed or advertised for a particular use or purpose and the cost of the product or substance is disproportionately higher than other products or substances marketed or advertised for the same or similar use or purpose;
(d) The packaging or label on the product or substance contains words or markings that state or suggest that the product or substance is in compliance with state and federal laws regulating controlled substances;

(e) The owner or person in control of the product or substance uses evasive tactics or actions to avoid detection or inspection of the product or substance by law enforcement authorities;

(f) The owner or person in control of the product or substance makes a verbal or written statement suggesting or implying that the product or substance is a synthetic drug or that consumption of the product or substance will replicate or mimic effects on the human body to those effects commonly produced through use or consumption of a controlled substance;

(g) The owner or person in control of the product or substance makes a verbal or written statement to a prospective customer, buyer, or recipient of the product or substance implying that the product or substance may be resold for profit; or

(h) The product or substance contains a chemical or chemical compound that does not have a legitimate relationship to the use or purpose claimed by the seller, distributor, packer, or manufacturer of the product or substance or indicated by the product name, appearing on the product’s packaging or label or depicted in advertisement of the product or substance.

Sec. 2. Section 38-319, Reissue Revised Statutes of Nebraska, is amended to read:

38-319 The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who (1) meets the requirements of the Alcohol and Drug Counseling Practice Act, (2) meets or substantially equivalent requirements as determined by the department, with the recommendation of the board, or (3) holds a license or certification that is current in
another jurisdiction that authorizes the applicant to provide alcohol and
drug counseling, has at least two hundred seventy hours of alcohol and
drug counseling education, has at least three years of full-time alcohol
and drug counseling practice following initial licensure or certification
in the other jurisdiction and has passed an alcohol and drug counseling
examination.

Sec. 3. Section 38-321, Reissue Revised Statutes of Nebraska, is
amended to read:

38-321 (1) The department, with the recommendation of the board,
shall adopt and promulgate rules and regulations to administer the
Alcohol and Drug Counseling Practice Act, including rules and regulations
governing:

(1) (a) Ways of clearly identifying students, interns, and other
persons providing alcohol and drug counseling under supervision;

(2) (b) The rights of persons receiving alcohol and drug counseling;

(3) (c) The rights of clients to gain access to their records,
except that records relating to substance abuse may be withheld from a
client if an alcohol and drug counselor determines, in his or her
professional opinion, that release of the records to the client would not
be in the best interest of the client or would pose a threat to another
person, unless the release of the records is required by court order;

(4) (d) The contents and methods of distribution of disclosure
statements to clients of alcohol and drug counselors; and

(5) (e) Standards of professional conduct and a code of ethics.

(2) The rules and regulations governing certified alcohol and drug
counselors shall remain in effect to govern licensure until modified
under this section, except that if there is any conflict with the Alcohol
and Drug Counseling Practice Act, the provisions of the act shall
prevail.

Sec. 4. Section 38-2104, Reissue Revised Statutes of Nebraska, is
amended to read:
Approved educational program means a program of education and training accredited by an agency listed in subsection (2) of this section or approved by the board. Such approval may be based on the program's accreditation by an accrediting agency with requirements similar to an agency listed in subsection (2) of this section or on standards established by the board in the manner and form provided in section 38-133.

(2) Approved educational program includes a program of education and training accredited by:

(a) The Commission on Accreditation for Marriage and Family Therapy Education;

(b) The Council for Accreditation of Counseling and Related Educational Programs;

(c) The Council on Rehabilitation Education;

(d) The Council on Social Work Education; or

(e) The American Psychological Association for a doctoral degree program enrolled in by a person who has a master's degree or its equivalent in psychology.

Sec. 5. Section 38-2117, Reissue Revised Statutes of Nebraska, is amended to read:

38-2117 Mental health program means an approved 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 course work in psychotherapy and the assessment of mental disorders.

Sec. 6. Section 38-2122, Reissue Revised Statutes of Nebraska, is amended to read:

38-2122 A person shall be qualified to be a licensed mental health practitioner if he or she:

(1) Has received a master's or doctorate degree, a doctoral degree,
or the equivalent of a master's degree, as determined by the board, that
consists of course work and training which was primarily therapeutic
mental health in content and included a practicum or internship and was
from an approved educational program. Practicums or internships completed
after September 1, 1995, must include a minimum of three hundred clock
hours of direct client contact under the supervision of a qualified
physician, a licensed psychologist, or a licensed mental health
practitioner;

(2) 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 means 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 September 1, 1994, for any hours completed before such date or by a
qualified physician, a psychologist licensed to engage in the practice of
psychology, 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, doctoral degree, or
equivalent of the master's or doctorate degree and during the five years
immediately preceding the application for licensure; and

(3) 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.
Sec. 7. Section 38-2123, Reissue Revised Statutes of Nebraska, is amended to read:

38-2123 (1) A person who needs to obtain the required three thousand hours of supervised experience in mental health practice as specified in section 38-2122 to qualify for a mental health practitioner license shall obtain a provisional mental health practitioner license. To qualify for a provisional mental health practitioner license, such person shall:

(a) Have a master's or doctorate degree, a doctoral degree, or the equivalent of a master's degree, as determined by the board, that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program as specified in such section 38-2122;

(b) Apply prior to earning the three thousand hours of supervised experience; and

(c) Pay the provisional mental health practitioner license fee.

(2) The rules and regulations approved by the board and adopted and promulgated by the department shall not require that the applicant have a supervisor in place at the time of application for a provisional mental health practitioner license. The applicant shall provide the department with the name and license number of his or her supervisor within thirty days after beginning employment under the provisional mental health practitioner license.

(3) A provisional mental health practitioner license shall expire upon receipt of licensure as a mental health practitioner or five years after the date of issuance, whichever comes first.

(4) A person who holds a provisional mental health practitioner license shall inform all clients that he or she holds a provisional license and is practicing mental health under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set forth in section 38-2139.
Sec. 8. Section 38-2124, Reissue Revised Statutes of Nebraska, is amended to read:

38-2124 (1) No person shall hold himself or herself out as an independent mental health practitioner unless he or she is licensed as such by the department. A person shall be qualified to be a licensed independent mental health practitioner if he or she:

(a)(i)(A) Graduated with a master's or doctoral degree from an educational program which is accredited, at the time of graduation or within four years after graduation, by the Council for Accreditation of Counseling and Related Educational Programs, the Commission on Accreditation for Marriage and Family Therapy Education, or the Council on Social Work Education or (B) graduated with a master's or doctoral degree from an educational program deemed by the board to be equivalent in didactic content and supervised clinical experience to an accredited program;

(ii)(A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has three thousand hours of experience obtained in a period of not less than two nor more than five years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category; or

(b)(i) Graduated from an educational program which does not meet the requirements of subdivision (a)(i) of this subsection;

(ii)(A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has seven thousand hours of experience obtained in a period of
not less than ten years and supervised by a licensed physician, a
licensed psychologist, or a licensed independent mental health
practitioner, one-half of which is comprised of experience with clients
diagnosed under the major mental illness or disorder category.

(2) The experience required under this section shall be documented
in a reasonable form and manner as prescribed by the board, which may
consist of sworn statements from the applicant and his or her employers
and supervisors. The board shall not in any case require the applicant to
produce individual case records.

(3) The application for an independent mental health practitioner
license shall include the applicant's social security number.

Sec. 9. Section 38-2125, Reissue Revised Statutes of Nebraska, is
amended to read:

38-2125 The department, with the recommendation of the board, may
issue a license based on licensure in another jurisdiction to an
individual who (1) meets the licensure requirements of the Mental Health
Practice Act or substantially equivalent requirements as determined by
the department, with the recommendation of the board, or (2) has been in
active practice in the appropriate discipline for at least five years
following initial licensure or certification in another jurisdiction and
has passed the Nebraska jurisprudence examination.

Sec. 10. Section 38-2826.01, Reissue Revised Statutes of Nebraska,
is amended to read:

38-2826.01 Long-term care facility means an intermediate care
facility, an intermediate care facility for persons with developmental
disabilities, a long-term care hospital, a mental health substance use
treatment center, a nursing facility, or a skilled nursing facility, as
such terms are defined in the Health Care Facility Licensure Act.

Sec. 11. Section 44-772, Reissue Revised Statutes of Nebraska, is
amended to read:

44-772 Mental health substance use substance abuse treatment center
shall mean a facility an institution licensed as a mental health substance use abuse treatment center by the Department of Health and Human Services and defined in section 71-423 71-430, which provides a program for the inpatient or outpatient treatment of alcoholism pursuant to a written treatment plan approved and monitored by a physician and which is affiliated with a hospital under a contractual agreement with an established system for patient referral.

Sec. 12. Section 44-776, Reissue Revised Statutes of Nebraska, is amended to read:

44-776 Primary treatment shall mean inpatient treatment rendered in a structured and scheduled setting to prevent further ingestion of alcoholic beverages, to relieve the pain of the withdrawal syndrome, and to provide intensive therapy or rehabilitation, when such treatment is rendered in a hospital or a mental health substance use abuse treatment center which is certified or accredited to render such care.

Sec. 13. Section 44-777, Reissue Revised Statutes of Nebraska, is amended to read:

44-777 Outpatient treatment shall mean counseling and therapy provided on a nonresidential basis when such treatment is rendered in or through a hospital, a substance abuse treatment center, or an outpatient program which is certified or accredited to render such care.

Sec. 14. Section 44-793, Reissue Revised Statutes of Nebraska, is amended to read:

44-793 (1) On or after January 1, 2000, notwithstanding section 44-3,131, any health insurance plan delivered, issued, or renewed in this state (a) if coverage is provided for treatment of mental health conditions other than alcohol or substance abuse, (i) shall not establish any rate, term, or condition that places a greater financial burden on an insured for access to treatment for a serious mental illness than for access to treatment for a physical health condition and (ii) if an out-of-pocket limit is established for physical health conditions, shall
apply such out-of-pocket limit as a single comprehensive out-of-pocket limit for both physical health conditions and mental health conditions, or (b) if no coverage is to be provided for treatment of mental health conditions, shall provide clear and prominent notice of such noncoverage in the plan.

(2) If a health insurance plan provides coverage for serious mental illness, the health insurance plan shall cover health care rendered for treatment of serious mental illness (a) by a mental health professional, (b) by a person authorized by the rules and regulations of the Department of Health and Human Services to provide treatment for mental illness, (c) in a mental health substance use treatment center as defined in section 71-423, or (d) in any other health care facility licensed under the Health Care Facility Licensure Act that provides a program for the treatment of a mental health condition pursuant to a written plan. The issuer of a health insurance plan may require a health care provider under this subsection to enter into a contract as a condition of providing benefits.

(3) The Director of Insurance may disapprove any plan that the director determines to be inconsistent with the purposes of this section.

Sec. 15. Section 68-1017.02, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-1017.02 (1)(a) The Department of Health and Human Services shall apply for and utilize to the maximum extent possible, within limits established by the Legislature, any and all appropriate options available to the state under the federal Supplemental Nutrition Assistance Program and regulations adopted under such program to maximize the number of Nebraska residents being served under such program within such limits. The department shall seek to maximize federal funding for such program and minimize the utilization of General Funds for such program and shall employ the personnel necessary to determine the options available to the state and issue the report to the Legislature required by subdivision (b)
of this subsection.

(b) The department shall submit electronically an annual report to the Health and Human Services Committee of the Legislature by December 1 on efforts by the department to carry out the provisions of this subsection. Such report shall provide the committee with all necessary and appropriate information to enable the committee to conduct a meaningful evaluation of such efforts. Such information shall include, but not be limited to, a clear description of various options available to the state under the federal Supplemental Nutrition Assistance Program, the department's evaluation of and any action taken by the department with respect to such options, the number of persons being served under such program, and any and all costs and expenditures associated with such program.

(c) The Health and Human Services Committee of the Legislature, after receipt and evaluation of the report required in subdivision (b) of this subsection, shall issue recommendations to the department on any further action necessary by the department to meet the requirements of this section.

(2)(a) The department shall develop a state outreach plan to promote access by eligible persons to benefits of the Supplemental Nutrition Assistance Program. The plan shall meet the criteria established by the Food and Nutrition Service of the United States Department of Agriculture for approval of state outreach plans. The Department of Health and Human Services may apply for and accept gifts, grants, and donations to develop and implement the state outreach plan.

(b) For purposes of developing and implementing the state outreach plan, the department shall partner with one or more counties or nonprofit organizations. If the department enters into a contract with a nonprofit organization relating to the state outreach plan, the contract may specify that the nonprofit organization is responsible for seeking sufficient gifts, grants, or donations necessary for the development and
implementation of the state outreach plan and may additionally specify that any costs to the department associated with the award and management of the contract or the implementation or administration of the state outreach plan shall be paid out of private or federal funds received for development and implementation of the state outreach plan.

(c) The department shall submit the state outreach plan to the Food and Nutrition Service of the United States Department of Agriculture for approval on or before August 1, 2011, and shall request any federal matching funds that may be available upon approval of the state outreach plan. It is the intent of the Legislature that the State of Nebraska and the Department of Health and Human Services use any additional public or private funds to offset costs associated with increased caseload resulting from the implementation of the state outreach plan.

(d) The department shall be exempt from implementing or administering a state outreach plan under this subsection, but not from developing such a plan, if it does not receive private or federal funds sufficient to cover the department's costs associated with the implementation and administration of the plan, including any costs associated with increased caseload resulting from the implementation of the plan.

(3)(a)(i) On or before October 1, 2011, the department shall create a TANF-funded program or policy that, in compliance with federal law, establishes categorical eligibility for federal food assistance benefits pursuant to the Supplemental Nutrition Assistance Program to maximize the number of Nebraska residents being served under such program in a manner that does not increase the current gross income eligibility limit.

(ii) Such TANF-funded program or policy shall eliminate all asset limits for eligibility for federal food assistance benefits, except that the total of liquid assets which includes cash on hand and funds in personal checking and savings accounts, money market accounts, and share accounts shall not exceed twenty-five thousand dollars pursuant to the
Supplemental Nutrition Assistance Program, as allowed under federal law and under 7 C.F.R. 273.2(j)(2).

(iii) This subsection becomes effective only if the department receives funds pursuant to federal participation that may be used to implement this subsection.

(b) For purposes of this subsection:

(i) Federal law means the federal Food and Nutrition Act of 2008, 77 U.S.C. 2011 et seq., and regulations adopted under the act; and

(ii) TANF means the federal Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq.

(4)(a) Within the limits specified in this subsection, the State of Nebraska opts out of the provision of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as such act existed on January 1, 2009, that eliminates eligibility for the Supplemental Nutrition Assistance Program for any person convicted of a felony involving the possession, use, or distribution of a controlled substance.

(b) A person shall be ineligible for Supplemental Nutrition Assistance Program benefits under this subsection if he or she (i) has had three or more felony convictions for the possession or use of a controlled substance or (ii) has been convicted of a felony involving the sale or distribution of a controlled substance or the intent to sell or distribute a controlled substance. A person with one or two felony convictions for the possession or use of a controlled substance shall only be eligible to receive Supplemental Nutrition Assistance Program benefits under this subsection if he or she is participating in or, since the date of conviction, has completed a state-licensed or nationally accredited substance abuse treatment program that is nationally accredited or provided in a mental health substance use treatment center licensed under the Health Care Facility Licensure Act since the date of conviction. The determination of such participation or completion shall be made by the treatment provider administering the program.
Sec. 16. Section 71-401, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-401 Sections 71-401 to 71-474 and sections 20 and 22 of this act shall be known and may be cited as the Health Care Facility Licensure Act.

Sec. 17. Section 71-403, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-403 For purposes of the Health Care Facility Licensure Act, unless the context otherwise requires, the definitions found in sections 71-404 to 71-431 and section 20 of this act shall apply.

Sec. 18. Section 71-413, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-413 Health care facility means an ambulatory surgical center, an assisted-living facility, a center or group home for the developmentally disabled, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, a pharmacy, a psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, or a skilled nursing facility, or a substance abuse treatment center.

Sec. 19. Section 71-423, Reissue Revised Statutes of Nebraska, is amended to read:

71-423 Mental health substance use treatment center means a facility where shelter, food, and counseling, supervision, diagnosis, treatment, care, rehabilitation, assessment, or related services professionally directed are provided for a period of more than twenty-four consecutive hours to persons residing at such facility who have a mental illness disease, disorder, or substance use disorder or both, with the intention of reducing or ameliorating the disorder or disorders or the effects of the disorder or disorders disability.
Sec. 20. Mental illness means a wide range of mental health disorders that affect mood, thinking, and behavior and can result in significantly impaired judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for health, safety, or recovery of the individual or for the safety of others.

Sec. 21. Section 71-430, Reissue Revised Statutes of Nebraska, is amended to read:

71-430 Substance use disorder means the recurrent use of alcohol, drugs, or both causing clinically and functionally significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home. Substance use disorders may be designated as mild, moderate, or severe to indicate the level of severity, which is determined by the number of diagnostic criteria met by an individual.

(1) Substance abuse treatment center means a facility, including any private dwelling, where shelter, food, and care, treatment, maintenance, or related services are provided in a group setting to persons who are substance abusers.

(2) Substance abuse treatment center includes programs and services that are provided on an outpatient basis primarily or exclusively to persons who are substance abusers but does not include services that can be rendered only by a physician or within a hospital.

(3) For purposes of this section:

(a) Substance abuse means the abuse of substances which have significant mood-changing or perception-changing capacities, which are likely to be physiologically or psychologically addictive, and the continued use of which may result in negative social consequences; and

(b) Abuse means the use of substances in ways that have or are likely to have significant adverse social consequences.

Sec. 22. A health care facility applying for a license as a mental
Sec. 23. Section 71-2411, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-2411 For purposes of the Emergency Box Drug Act:

(1) Authorized personnel means any medical doctor, doctor of osteopathy, registered nurse, licensed practical nurse, nurse practitioner, pharmacist, or physician assistant;

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

(3) Drug means any prescription drug or device or legend drug or device defined under section 38-2841, any nonprescription drug as defined under section 38-2829, any controlled substance as defined under section 28-405, or any device as defined under section 38-2814;

(4) Emergency box drugs means drugs required to meet the immediate therapeutic needs of patients when the drugs are not available from any other authorized source in time to sufficiently prevent risk of harm to such patients by the delay resulting from obtaining such drugs from such other authorized source;

(5) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, or a skilled nursing facility, as such terms are
defined in the Health Care Facility Licensure Act;

(6) Multiple dose vial means any bottle in which more than one dose of a liquid drug is stored or contained;

(7) Pharmacist means a pharmacist as defined in section 38-2832 who is employed by a supplying pharmacy or who has contracted with a long-term care facility to provide consulting services; and

(8) Supplying pharmacy means a pharmacy that supplies drugs for an emergency box located in a long-term care facility. Drugs in the emergency box are owned by the supplying pharmacy.

Sec. 24. Section 71-2445, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-2445 For purposes of the Automated Medication Systems Act:

(1) Automated medication distribution machine means a type of automated medication system that stores medication to be administered to a patient by a person credentialed under the Uniform Credentialing Act;

(2) Automated medication system means a mechanical system that performs operations or activities, other than compounding, administration, or other technologies, relative to storage and packaging for dispensing or distribution of medications and that collects, controls, and maintains all transaction information and includes, but is not limited to, a prescription medication distribution machine or an automated medication distribution machine. An automated medication system may only be used in conjunction with the provision of pharmacist care;

(3) Chart order means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored, for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412, or for a resident in a long-term care facility in which a long-term care automated pharmacy is located from which drugs will be dispensed. Chart order does not include a prescription;

(4) Hospital has the definition found in section 71-419;
(5) Long-term care automated pharmacy means a designated area in a long-term care facility where an automated medication system is located, that stores medications for dispensing pursuant to a medical order to residents in such long-term care facility, that is installed and operated by a pharmacy licensed under the Health Care Facility Licensure Act, and that is licensed under section 71-2451;

(6) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

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

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

(9) Pharmacist care means the provision by a pharmacist of medication therapy management, with or without the dispensing of drugs or devices, intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process;

(10) Pharmacist remote order entry means entering an order into a computer system or drug utilization review by a pharmacist licensed to practice pharmacy in the State of Nebraska and located within the United States, pursuant to medical orders in a hospital, long-term care facility, or pharmacy licensed under the Health Care Facility Licensure Act;

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

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

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

(14) Prescription medication distribution machine means a type of automated medication system that packages, labels, or counts medication in preparation for dispensing of medications by a pharmacist pursuant to a prescription; and

(15) Telepharmacy means the provision of pharmacist care, by a pharmacist located within the United States, using telecommunications, remote order entry, or other automations and technologies to deliver care to patients or their agents who are located at sites other than where the pharmacist is located.

Sec. 25. Section 77-2704.12, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2704.12 (1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by (a) any nonprofit organization created exclusively for religious purposes, (b) any nonprofit organization providing services exclusively to the blind, (c) any nonprofit private educational institution established under sections 79-1601 to 79-1607, (d) any regionally or nationally accredited, nonprofit, privately controlled college or university with its primary campus physically located in Nebraska, (e) any nonprofit (i) hospital,
(ii) health clinic when one or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services or when the health clinic receives federal funds through the United States Public Health Service for the purpose of serving populations that are medically underserved, (iii) skilled nursing facility, (iv) intermediate care facility, (v) assisted-living facility, (vi) intermediate care facility for persons with developmental disabilities, (vii) nursing facility, (viii) home health agency, (ix) hospice or hospice service, (x) respite care service, (xi) mental health substance use treatment center licensed under the Health Care Facility Licensure Act, or (xii) substance abuse treatment center licensed under the Health Care Facility Licensure Act, or (xiii) center for independent living as defined in 29 U.S.C. 796a, (f) any nonprofit licensed residential child-caring agency, (g) any nonprofit licensed child-placing agency, or (h) any nonprofit organization certified by the Department of Health and Human Services to provide community-based services for persons with developmental disabilities.

(2) Any organization listed in subsection (1) of this section shall apply for an exemption on forms provided by the Tax Commissioner. The application shall be approved and a numbered certificate of exemption received by the applicant organization in order to be exempt from the sales and use tax.

(3) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the owner of the organization or institution. The appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on
inventory items annexed to real estate in the construction, improvement,
or repair of a project for a licensed not-for-profit institution.

(4) Any organization listed in subsection (1) of this section which
to enter into a contract of construction, improvement, or repair upon
property annexed to real estate without first issuing a purchasing agent
authorization to a contractor or repairperson prior to the building
materials being annexed to real estate in the project may apply to the
Tax Commissioner for a refund of any sales and use tax paid by the
contractor or repairperson on the building materials physically annexed
to real estate in the construction, improvement, or repair.

(5) Any person purchasing, storing, using, or otherwise consuming
building materials in the performance of any construction, improvement,
or repair by or for any institution enumerated in subsection (1) of this
section which is licensed upon completion although not licensed at the
time of construction or improvement, which building materials are annexed
to real estate and which subsequently belong to the owner of the
institution, shall pay any applicable sales or use tax thereon. Upon
becoming licensed and receiving a numbered certificate of exemption, the
institution organized not for profit shall be entitled to a refund of the
amount of taxes so paid in the performance of such construction,
 improvement, or repair and shall submit whatever evidence is required by
the Tax Commissioner sufficient to establish the total sales and use tax
paid upon the building materials physically annexed to real estate in the
construction, improvement, or repair.

Sec. 26. Original sections 28-401, 38-319, 38-321, 38-2104,
38-2117, 38-2122, 38-2123, 38-2124, 38-2125, 38-2826.01, 44-772, 44-776,
44-777, 44-793, 71-423, and 71-430, Reissue Revised Statutes of Nebraska,
and sections 68-1017.02, 71-401, 71-403, 71-413, 71-2411, 71-2445, and
77-2704.12, Revised Statutes Cumulative Supplement, 2016, are repealed.