

LEGISLATURE OF NEBRASKA
 ONE HUNDREDTH LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 247

FINAL READING

Introduced by Johnson, 37

Read first time January 10, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend
 2 sections 43-102, 43-104, 43-104.01, 43-104.02, 43-104.03,
 3 43-104.04, 43-104.05, 43-104.08, 43-104.09, 43-104.12,
 4 43-104.13, 43-104.14, 43-104.17, 43-104.22, 43-105,
 5 43-106, 43-906, 43-1411, 71-193.15, 71-193.17, 71-1,186,
 6 71-1,187, 71-1,195.01, 71-1,195.02, 71-1,195.03,
 7 71-1,195.04, 71-1,195.05, 71-1,195.06, 71-1,195.07,
 8 71-1,195.08, 71-1,195.09, 71-1,296, 71-1,307, 71-1,308,
 9 71-1,315, 71-1,316, 71-1,333, 71-1,335, 71-1,336,
 10 71-1,337, 71-1,338, 71-2421, 71-4702, 71-4707, 71-8402,
 11 and 81-651, Reissue Revised Statutes of Nebraska,
 12 sections 28-401, 28-405, 28-412, 71-101, 71-1,147.35,
 13 71-1913.01, 71-5403, and 71-7438, Revised Statutes

1 Cumulative Supplement, 2006, section 71-1,135.02, Reissue
2 Revised Statutes of Nebraska, as amended by section
3 23, Legislative Bill 236, One Hundredth Legislature,
4 First Session, 2007, section 341, Legislative Bill
5 296, One Hundredth Legislature, First Session, 2007,
6 and section 885, Legislative Bill 463, One Hundredth
7 Legislature, First Session, 2007; section 71-1,147,
8 Reissue Revised Statutes of Nebraska, as amended
9 by section 30, Legislative Bill 236, One Hundredth
10 Legislature, First Session, 2007, and section 963,
11 Legislative Bill 463, One Hundredth Legislature, First
12 Session, 2007; section 71-1,186, Reissue Revised Statutes
13 of Nebraska, as amended by section 27, Legislative
14 Bill 247, One Hundredth Legislature, First Session,
15 2007, and section 188, Legislative Bill 463, One
16 Hundredth Legislature, First Session, 2007; section
17 71-1,195.09, Reissue Revised Statutes of Nebraska,
18 as amended by section 37, Legislative Bill 247, One
19 Hundredth Legislature, First Session, 2007, and section
20 211, Legislative Bill 463, One Hundredth Legislature,
21 First Session, 2007; section 71-1,200, Reissue Revised
22 Statutes of Nebraska, as amended by section 130,
23 Legislative Bill 463, One Hundredth Legislature, First
24 Session, 2007, and section 1, Legislative Bill 152,
25 One Hundredth Legislature, First Session, 2007; section

1 71-4702, Reissue Revised Statutes of Nebraska, as
2 amended by section 52, Legislative Bill 247, One
3 Hundredth Legislature, First Session, 2007, and section
4 573, Legislative Bill 463, One Hundredth Legislature,
5 First Session, 2007; section 71-4707, Reissue Revised
6 Statutes of Nebraska, as amended by section 576,
7 Legislative Bill 463, One Hundredth Legislature,
8 First Session, 2007; section 71-101, Revised Statutes
9 Cumulative Supplement, 2006, as amended by section 296,
10 Legislative Bill 296, One Hundredth Legislature, First
11 Session, 2007, section 1, Legislative Bill 463, One
12 Hundredth Legislature, First Session, 2007, section 1,
13 Legislative Bill 236, One Hundredth Legislature, First
14 Session, 2007, section 1, Legislative Bill 481, One
15 Hundredth Legislature, First Session, 2007, and section
16 23, Legislative Bill 247, One Hundredth Legislature,
17 First Session, 2007; section 71-102, Revised Statutes
18 Cumulative Supplement, 2006, as amended by section 297,
19 Legislative Bill 296, One Hundredth Legislature, First
20 Session, 2007, section 21, Legislative Bill 463, One
21 Hundredth Legislature, First Session, 2007, and section
22 2, Legislative Bill 236, One Hundredth Legislature,
23 First Session, 2007; section 71-104.01, Revised Statutes
24 Cumulative Supplement, 2006, as amended by section
25 31, Legislative Bill 463, One Hundredth Legislature,

1 First Session, 2007, and section 2, Legislative Bill
2 481, One Hundredth Legislature, First Session, 2007;
3 sections 125, 187, 191, 192, 193, 720, 886, 887,
4 897, and 932, Legislative Bill 463, One Hundredth
5 Legislature, First Session, 2007; and sections 8, 12,
6 32, 35, 36, and 42, Legislative Bill 236, One Hundredth
7 Legislature, First Session, 2007; to change and eliminate
8 provisions relating to controlled substances, treatment
9 of narcotic-dependent persons, adoption procedures,
10 consent for adoption, the biological father registry,
11 claims for paternity, petitions for custody, children
12 born out of wedlock, notice and hearing, relinquishment
13 of parental rights, dental hygienists, drug utilization
14 review, audiology, speech-language pathology, mental
15 health practice, immunization requirements for child care
16 programs, return of dispensed drugs and devices, hearing
17 aid instrument dispensers and fitters, drug product
18 selection, wholesale drug distributors, credentialing
19 of health care professionals, optometry, perfusion,
20 pharmacy technicians, and in-home personal services;
21 to define and redefine terms; to require insurance
22 coverage of colorectal cancer screenings; to harmonize
23 provisions; to provide a duty for the Revisor of
24 Statutes; to provide operative dates; to repeal
25 the original sections; to outright repeal sections

1 71-1,186.01 and 71-1,192, Reissue Revised Statutes of
2 Nebraska; section 71-1,190.01, Reissue Revised Statutes
3 of Nebraska, as amended by section 356, Legislative
4 Bill 296, One Hundredth Legislature, First Session,
5 2007; sections 71-1,135.03, 71-1,135.05, and 71-1,147.34,
6 Reissue Revised Statutes of Nebraska, as amended by
7 sections 888, 873, and 987, respectively, Legislative
8 Bill 463, One Hundredth Legislature, First Session,
9 2007; sections 71-1,195.03, 71-1,315, 71-1,316, 71-1,333,
10 and 71-1,338, Reissue Revised Statutes of Nebraska, as
11 amended by sections 31, 43, 44, 45, and 49, respectively,
12 Legislative Bill 247, One Hundredth Legislature, First
13 Session, 2007; section 71-1,147.33, Revised Statutes
14 Cumulative Supplement, 2006, as amended by section 349,
15 Legislative Bill 296, One Hundredth Legislature, First
16 Session, 2007, and section 986, Legislative Bill 463, One
17 Hundredth Legislature, First Session, 2007; and section
18 15, Legislative Bill 236, One Hundredth Legislature,
19 First Session, 2007; and to declare an emergency.
20 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-401, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 28-401 As used in the Uniform Controlled Substances Act,
4 unless the context otherwise requires:

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

8 (2) Agent shall mean an authorized person who acts on
9 behalf of or at the direction of another person but shall not
10 include a common or contract carrier, public warehouse keeper, or
11 employee of a carrier or warehouse keeper;

12 (3) Administration shall mean the Drug Enforcement
13 Administration, United States Department of Justice;

14 (4) Controlled substance shall mean a drug, biological,
15 substance, or immediate precursor in Schedules I to V of section
16 28-405. Controlled substance shall not include distilled spirits,
17 wine, malt beverages, tobacco, or any nonnarcotic substance if such
18 substance may, under the Federal Food, Drug, and Cosmetic Act, 21
19 U.S.C. 301 et seq., as such act existed on January 1, 2003, and
20 the law of this state, be lawfully sold over the counter without a
21 prescription;

22 (5) Counterfeit substance shall mean a controlled
23 substance which, or the container or labeling of which, without
24 authorization, bears the trademark, trade name, or other
25 identifying mark, imprint, number, or device, or any likeness

1 thereof, of a manufacturer, distributor, or dispenser other than
2 the person or persons who in fact manufactured, distributed, or
3 dispensed such substance and which thereby falsely purports or is
4 represented to be the product of, or to have been distributed by,
5 such other manufacturer, distributor, or dispenser;

6 (6) Department shall mean the Department of Health and
7 Human Services Regulation and Licensure;

8 (7) Division of Drug Control shall mean the personnel of
9 the Nebraska State Patrol who are assigned to enforce the Uniform
10 Controlled Substances Act;

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

16 (9) Distribute shall mean to deliver other than by
17 administering or dispensing a controlled substance;

18 (10) Prescribe shall mean to issue a medical order;

19 (11) Drug shall mean (a) articles recognized in
20 the official United States Pharmacopoeia, official Homeopathic
21 Pharmacopoeia of the United States, official National Formulary,
22 or any supplement to any of them, (b) substances intended for use
23 in the diagnosis, cure, mitigation, treatment, or prevention of
24 disease in human beings or animals, and (c) substances intended for
25 use as a component of any article specified in subdivision (a) or

1 (b) of this subdivision, but shall not include devices or their
2 components, parts, or accessories;

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

7 (13) Marijuana shall mean all parts of the plant of
8 the genus cannabis, whether growing or not, the seeds thereof,
9 and every compound, manufacture, salt, derivative, mixture, or
10 preparation of such plant or its seeds, but shall not include
11 the mature stalks of such plant, hashish, tetrahydrocannabinols
12 extracted or isolated from the plant, fiber produced from such
13 stalks, oil or cake made from the seeds of such plant, any other
14 compound, manufacture, salt, derivative, mixture, or preparation of
15 such mature stalks, or the sterilized seed of such plant which is
16 incapable of germination. When the weight of marijuana is referred
17 to in the Uniform Controlled Substances Act, it shall mean its
18 weight at or about the time it is seized or otherwise comes into
19 the possession of law enforcement authorities, whether cured or
20 uncured at that time;

21 (14) Manufacture shall mean the production, preparation,
22 propagation, ~~compounding~~, conversion, or processing of a controlled
23 substance, either directly or indirectly, by extraction from
24 substances of natural origin, independently by means of chemical
25 synthesis, or by a combination of extraction and chemical

1 synthesis, and shall include any packaging or repackaging of the
2 substance or labeling or relabeling of its container. Manufacture
3 shall not include the preparation or compounding of a controlled
4 substance by an individual for his or her own use, except for the
5 preparation or compounding of components or ingredients used for or
6 intended to be used for the manufacture of methamphetamine, or the
7 preparation, compounding, conversion, packaging, or labeling of a
8 controlled substance: (a) By a practitioner as an incident to his
9 or her prescribing, administering, or dispensing of a controlled
10 substance in the course of his or her professional practice; or
11 (b) by a practitioner, or by his or her authorized agent under
12 his or her supervision, for the purpose of, or as an incident to,
13 research, teaching, or chemical analysis and not for sale;

14 (15) Narcotic drug shall mean any of the following,
15 whether produced directly or indirectly by extraction from
16 substances of vegetable origin, independently by means of chemical
17 synthesis, or by a combination of extraction and chemical
18 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,
19 and opiates; (b) a compound, manufacture, salt, derivative, or
20 preparation of opium, coca leaves, or opiates; or (c) a substance
21 and any compound, manufacture, salt, derivative, or preparation
22 thereof which is chemically equivalent to or identical with any
23 of the substances referred to in subdivisions (a) and (b) of this
24 subdivision, except that the words narcotic drug as used in the
25 Uniform Controlled Substances Act shall not include decocainized

1 coca leaves or extracts of coca leaves, which extracts do not
2 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

3 (16) Opiate shall mean any substance having an
4 addiction-forming or addiction-sustaining liability similar to
5 morphine or being capable of conversion into a drug having
6 such addiction-forming or addiction-sustaining liability. Opiate
7 shall not include the dextrorotatory isomer of 3-methoxy-n
8 methylmorphinan and its salts. Opiate shall include its racemic and
9 levorotatory forms;

10 (17) Opium poppy shall mean the plant of the species
11 *Papaver somniferum* L., except the seeds thereof;

12 (18) Poppy straw shall mean all parts, except the seeds,
13 of the opium poppy after mowing;

14 (19) Person shall mean any corporation, association,
15 partnership, limited liability company, or one or more individuals;

16 (20) Practitioner shall mean a physician, a physician
17 assistant, a dentist, a veterinarian, a pharmacist, a podiatrist,
18 an optometrist, a certified nurse midwife, a certified registered
19 nurse anesthetist, a nurse practitioner, a scientific investigator,
20 a pharmacy, a hospital, or any other person licensed, registered,
21 or otherwise permitted to distribute, dispense, prescribe, conduct
22 research with respect to, or administer a controlled substance in
23 the course of practice or research in this state, including an
24 emergency medical service as defined in section 71-5175;

25 (21) Production shall include the manufacture, planting,

1 cultivation, or harvesting of a controlled substance;

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

8 (23) State shall mean the State of Nebraska;

9 (24) Ultimate user shall mean a person who lawfully
10 possesses a controlled substance for his or her own use, for the
11 use of a member of his or her household, or for administration
12 to an animal owned by him or her or by a member of his or her
13 household;

14 (25) Hospital shall have the same meaning as in section
15 71-419;

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

21 (27) Hashish or concentrated cannabis shall mean: (a) The
22 separated resin, whether crude or purified, obtained from a plant
23 of the genus cannabis; or (b) any material, preparation, mixture,
24 compound, or other substance which contains ten percent or more by
25 weight of tetrahydrocannabinols;

1 (28) Exceptionally hazardous drug shall mean (a)
2 a narcotic drug, (b) thiophene analog of phencyclidine,
3 (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f)
4 pentobarbital, (g) amphetamine, or (h) methamphetamine;

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

14 (30)(a) Controlled substance analogue shall mean a
15 substance (i) the chemical structure of which is substantially
16 similar to the chemical structure of a Schedule I or Schedule
17 II controlled substance as provided in section 28-405 or (ii)
18 which has a stimulant, depressant, analgesic, or hallucinogenic
19 effect on the central nervous system that is substantially similar
20 to or greater than the stimulant, depressant, analgesic, or
21 hallucinogenic effect on the central nervous system of a Schedule I
22 or Schedule II controlled substance as provided in section 28-405.
23 A controlled substance analogue shall, to the extent intended for
24 human consumption, be treated as a controlled substance under
25 Schedule I of section 28-405 for purposes of the Uniform Controlled

1 Substances Act; and

2 (b) Controlled substance analogue shall not include (i)
3 a controlled substance, (ii) any substance generally recognized as
4 safe and effective within the meaning of the Federal Food, Drug,
5 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on
6 January 1, 2003, (iii) any substance for which there is an approved
7 new drug application, or (iv) with respect to a particular person,
8 any substance if an exemption is in effect for investigational use
9 for that person, under section 505 of the Federal Food, Drug, and
10 Cosmetic Act, 21 U.S.C. 355, as such section existed on January
11 1, 2003, to the extent conduct with respect to such substance is
12 pursuant to such exemption;

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

25 (32) Chart order shall mean an order for a controlled

1 substance issued by a practitioner for a patient who is in the
2 hospital where the chart is stored or for a patient receiving
3 detoxification treatment or maintenance treatment pursuant to
4 section 28-412. Chart order shall not include a prescription;

5 (33) Medical order shall mean a prescription, a
6 chart order, or an order for pharmaceutical care issued by a
7 practitioner;

8 (34) Prescription shall mean an order for a controlled
9 substance issued by a practitioner. Prescription shall not include
10 a chart order;

11 (35) Registrant shall mean any person who has a
12 controlled substances registration issued by the state or the
13 administration;

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

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

24 (38) Facsimile shall mean a copy generated by a
25 system that encodes a document or photograph into electrical

1 signals, transmits those signals over telecommunications lines,
2 and reconstructs the signals to create an exact duplicate of the
3 original document at the receiving end;

4 (39) Electronic signature shall have the definition found
5 in section 86-621; and

6 (40) Electronic transmission shall mean transmission
7 of information in electronic form. Electronic transmission may
8 include computer-to-computer transmission or computer-to-facsimile
9 transmission.

10 Sec. 2. Section 28-405, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 28-405 The following are the schedules of controlled
13 substances referred to in the Uniform Controlled Substances Act:

14 Schedule I

15 (a) Any of the following opiates, including their
16 isomers, esters, ethers, salts, and salts of isomers, esters, and
17 ethers, unless specifically excepted, whenever the existence of
18 such isomers, esters, ethers, and salts is possible within the
19 specific chemical designation:

20 (1) Acetylmethadol;

21 (2) Allylprodine;

22 (3) Alphacetylmethadol, except levo-alphacetylmethadol
23 which is also known as levo-alpha-acetylmethadol, levomethadyl
24 acetate, and LAAM;

25 (4) Alphameprodine;

- 1 (5) Alphamethadol;
- 2 (6) Benzethidine;
- 3 (7) Betacetylmethadol;
- 4 (8) Betameprodine;
- 5 (9) Betamethadol;
- 6 (10) Betaprodine;
- 7 (11) Clonitazene;
- 8 (12) Dextromoramide;
- 9 (13) DifenoXin;
- 10 (14) Diampromide;
- 11 (15) Diethylthiambutene;
- 12 (16) Dimenoxadol;
- 13 (17) Dimepheptanol;
- 14 (18) Dimethylthiambutene;
- 15 (19) Dioxaphetyl butyrate;
- 16 (20) Dipipanone;
- 17 (21) Ethylmethylthiambutene;
- 18 (22) Etonitazene;
- 19 (23) EtoXeridine;
- 20 (24) Furethidine;
- 21 (25) Hydroxypethidine;
- 22 (26) Ketobemidone;
- 23 (27) Levomoramide;
- 24 (28) Levophenacylmorphane;
- 25 (29) Morpheridine;

- 1 (30) Noracymethadol;
- 2 (31) Norlevorphanol;
- 3 (32) Normethadone;
- 4 (33) Norpipanone;
- 5 (34) Phenadoxone;
- 6 (35) Phenampromide;
- 7 (36) Phenomorphan;
- 8 (37) Phenoperidine;
- 9 (38) Piritramide;
- 10 (39) Proheptazine;
- 11 (40) Properidine;
- 12 (41) Propiram;
- 13 (42) Racemoramide;
- 14 (43) Trimeperidine;
- 15 (44) Alpha-methylfentanyl,
- 16 N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl) propionanilide,
- 17 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine;
- 18 (45) Tilidine;
- 19 (46) 3-Methylfentanyl,
- 20 N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide, its
- 21 optical and geometric isomers, salts, and salts of isomers;
- 22 (47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its
- 23 optical isomers, salts, and salts of isomers;
- 24 (48) PEPAP
- 25 (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine), its optical

1 isomers, salts, and salts of isomers;

2 (49) Acetyl-alpha-methylfentanyl
3 (N-(1-(1-methyl-2-phenethyl)-4-piperidinyl)-N-phenylacetamide), its
4 optical isomers, salts, and salts of isomers;

5 (50) Alpha-methylthiofentanyl
6 (N-(1-methyl-2-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide),
7 its optical isomers, salts, and salts of isomers;

8 (51) Benzylfentanyl
9 (N-(1-benzyl-4-piperidyl)-N-phenylpropanamide), its optical
10 isomers, salts, and salts of isomers;

11 (52) Beta-hydroxyfentanyl (N-(1-(2-hydroxy-2-
12 phenethyl)-4-piperidinyl)-N-phenylpropanamide), its optical
13 isomers, salts, and salts of isomers;

14 (53) Beta-hydroxy-3-methylfentanyl (other name:
15 N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-
16 phenylpropanamide), its optical and geometric isomers, salts, and
17 salts of isomers;

18 (54) 3-methylthiofentanyl
19 (N-(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide),
20 its optical and geometric isomers, salts, and salts of isomers;

21 (55)
22 N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide
23 (thenylfentanyl), its optical isomers, salts, and salts of isomers;

24 (56) Thiofentanyl
25 (N-phenyl-N-(1-(2-thienyl)ethyl-4-piperidinyl)-propanamide), its

1 optical isomers, salts, and salts of isomers; and

2 (57) Para-fluorofentanyl
3 (N-(4-fluorophenyl)-N-(1-(2-phenethyl)-4-piperidinyl)propanamide),
4 its optical isomers, salts, and salts of isomers.

5 (b) Any of the following opium derivatives, their salts,
6 isomers, and salts of isomers, unless specifically excepted,
7 whenever the existence of such salts, isomers, and salts of
8 isomers is possible within the specific chemical designation:

- 9 (1) Acetorphine;
- 10 (2) Acetyldihydrocodeine;
- 11 (3) Benzylmorphine;
- 12 (4) Codeine methylbromide;
- 13 (5) Codeine-N-Oxide;
- 14 (6) Cyprenorphine;
- 15 (7) Desomorphine;
- 16 (8) Dihydromorphine;
- 17 (9) Drotebanol;
- 18 (10) Etorphine, except hydrochloride salt;
- 19 (11) Heroin;
- 20 (12) Hydromorphenol;
- 21 (13) Methyldesorphine;
- 22 (14) Methyldihydromorphine;
- 23 (15) Morphine methylbromide;
- 24 (16) Morphine methylsulfonate;
- 25 (17) Morphine-N-Oxide;

- 1 (18) Myrophine;
2 (19) Nicocodeine;
3 (20) Nicomorphine;
4 (21) Normorphine;
5 (22) Pholcodine; and
6 (23) Thebacon.

7 (c) Any material, compound, mixture, or preparation which
8 contains any quantity of the following hallucinogenic substances,
9 their salts, isomers, and salts of isomers, unless specifically
10 excepted, whenever the existence of such salts, isomers, and salts
11 of isomers is possible within the specific chemical designation,
12 and, for purposes of this subdivision only, isomer shall include
13 the optical, position, and geometric isomers:

14 (1) Bufotenine. Trade and other names shall include,
15 but are not limited to: 3-(B-Dimethylaminoethyl)-5-hydroxyindole;
16 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin;
17 5-hydroxy-N,N-dimethyltryptamine; and mappine;

18 (2) Diethyltryptamine. Trade and other names shall
19 include, but are not limited to: N,N-diethyltryptamine; and DET;

20 (3) Dimethyltryptamine. Trade and other names shall
21 include, but are not limited to: DMT;

22 (4) 4-bromo-2,5-dimethoxyamphetamine. Trade and other
23 names shall include, but are not limited to: 4-bromo-2,
24 5-dimethoxy-a-methylphenethylamine; and 4-bromo-2,5-DMA;

25 (5) 4-methoxyamphetamine. Trade and other names shall

1 include, but are not limited to: 4-methoxy-a-methyl-phenethylamine;
2 and paramethoxyamphetamine, PMA;

3 (6) 4-methyl-2, 5-dimethoxyamphetamine. Trade
4 and other names shall include, but are not limited to:
5 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM; and STP;

6 (7) 5-methoxy-N-N, dimethyltryptamine;

7 (8) Ibogaine. Trade and other names
8 shall include, but are not limited to:
9 7-ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-
10 pyrido (1',2':1,2) azepino (5,4-b) indole; and tabernanthe iboga;

11 (9) Lysergic acid diethylamide;

12 (10) Marijuana;

13 (11) Mescaline;

14 (12) Peyote. Peyote shall mean all parts of the plant
15 presently classified botanically as *Lophophora williamsii* Lemaire,
16 whether growing or not, the seeds thereof, any extract from
17 any part of such plant, and every compound, manufacture, salts,
18 derivative, mixture, or preparation of such plant or its seeds or
19 extracts;

20 (13) Psilocybin;

21 (14) Psilocyn;

22 (15) Tetrahydrocannabinols, including, but not limited
23 to, synthetic equivalents of the substances contained in the plant
24 or in the resinous extractives of cannabis, sp. or synthetic
25 substances, derivatives, and their isomers with similar chemical

1 structure and pharmacological activity such as the following: Delta
2 1 cis or trans tetrahydrocannabinol and their optical isomers,
3 excluding dronabinol in sesame oil and encapsulated in a soft
4 gelatin capsule in a drug product approved by the federal Food
5 and Drug Administration; Delta 6 cis or trans tetrahydrocannabinol
6 and their optical isomers; and Delta 3,4 cis or trans
7 tetrahydrocannabinol and its optical isomers. Since nomenclature
8 of these substances is not internationally standardized, compounds
9 of these structures shall be included regardless of the numerical
10 designation of atomic positions covered;

11 (16) 3,4-methylenedioxy amphetamine;

12 (17) 5-methoxy-3,4-methylenedioxy amphetamine;

13 (18) 3,4,5-trimethoxy amphetamine;

14 (19) N-ethyl-3-piperidyl benzilate;

15 (20) N-methyl-3-piperidyl benzilate;

16 (21) Thiophene analog of phencyclidine. Trade
17 and other names shall include, but are not limited to:
18 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienyl analog of
19 phencyclidine; TCP; and TCP;

20 (22) 2,5-dimethoxyamphetamine. Trade and
21 other names shall include, but are not limited to:
22 2,5-dimethoxy- α -methylphenethylamine; and 2,5-DMA;

23 (23) Hashish or concentrated cannabis;

24 (24) Parahexyl. Trade and other names shall include,
25 but are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,

1 9-trimethyl-6H-dibenzo(b,d)pyran; and synhexyl;

2 (25) Ethylamine analog of phencyclidine. Trade
3 and other names shall include, but are not limited to:
4 N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine;
5 N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE;

6 (26) Pyrrolidine analog of phencyclidine. Trade
7 and other names shall include, but are not limited to:
8 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP;

9 (27) 3,4-methylenedioxyamphetamine (MDMA), its
10 optical, positional, and geometric isomers, salts, and salts of
11 isomers;

12 (28) 4-bromo-2,5-dimethoxyphenethylamine. Some trade
13 or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane;
14 alpha-desmethyl DOB; 2C-B; and Nexus;

15 (29) Alpha-ethyltryptamine. Some trade or other
16 names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine;
17 3-(2-aminobutyl) indole; alpha-ET; and AET;

18 (30) 2,5-dimethoxy-4-ethylamphet-amine; and DOET;

19 (31) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine; and TCPy;

20 (32) Alpha-methyltryptamine, which is also known as AMT;

21 and

22 (33) 5-Methoxy-N, N-diisopropyltryptamine, which is also
23 known as 5-MeO-DIPT.

24 (d) Unless specifically excepted or unless listed in
25 another schedule, any material, compound, mixture, or preparation

1 which contains any quantity of the following substances having
2 a depressant effect on the central nervous system, including its
3 salts, isomers, and salts of isomers whenever the existence of
4 such salts, isomers, and salts of isomers is possible within the
5 specific chemical designation:

6 (1) Mecloqualone;

7 (2) Methaqualone; and

8 (3) Gamma-hydroxybutyric acid. Some other names include:
9 GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic
10 acid; sodium oxybate; and sodium oxybutyrate.

11 (e) Unless specifically excepted or unless listed in
12 another schedule, any material, compound, mixture, or preparation
13 which contains any quantity of the following substances having
14 a stimulant effect on the central nervous system, including its
15 salts, isomers, and salts of isomers:

16 (1) Fenethylline;

17 (2) N-ethylamphetamine;

18 (3) Aminorex; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;
19 and 4,5-dihydro-5-phenyl-2-oxazolamine;

20 (4) Cathinone; 2-amino-1-phenyl-1-propanone;
21 alpha-aminopropiophenone; 2-aminopropiophenone; and norephedrone;

22 (5) Methcathinone, its salts, optical isomers,
23 and salts of optical isomers. Some other names:
24 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone;
25 2-(methylamino)-1-phenylpropan-1-one;

1 alpha-N-methylaminopropiophenone; methylcathinone;
2 monomethylpropion; ephedrone; N-methylcathinone; AL-464; AL-422;
3 AL-463; and UR1432;
4 (6) (+/-) cis-4-methylaminorex; and
5 (+/-) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine;
6 and
7 (7) N,N-dimethylamphetamine;
8 N,N-alpha-trimethyl-benzeneethanamine; and
9 N,N-alpha-trimethylphenethylamine.

10 (f) Any controlled substance analogue to the extent
11 intended for human consumption.

12 Schedule II

13 (a) Any of the following substances except those narcotic
14 drugs listed in other schedules whether produced directly or
15 indirectly by extraction from substances of vegetable origin,
16 independently by means of chemical synthesis, or by combination of
17 extraction and chemical synthesis:

18 (1) Opium and opiate, and any salt, compound, derivative,
19 or preparation of opium or opiate, excluding apomorphine,
20 buprenorphine, thebaine-derived butorphanol, dextrorphan,
21 nalbuphine, nalmeffene, naloxone, and naltrexone and their
22 salts, but including the following:

23 (i) Raw opium;

24 (ii) Opium extracts;

25 (iii) Opium fluid;

- 1 (iv) Powdered opium;
- 2 (v) Granulated opium;
- 3 (vi) Tincture of opium;
- 4 (vii) Codeine;
- 5 (viii) Ethylmorphine;
- 6 (ix) Etorphine hydrochloride;
- 7 (x) Hydrocodone;
- 8 (xi) Hydromorphone;
- 9 (xii) Metopon;
- 10 (xiii) Morphine;
- 11 (xiv) Oxycodone;
- 12 (xv) Oxymorphone;
- 13 (xvi) Thebaine; and
- 14 (xvii) Dihydroetorphine;
- 15 (2) Any salt, compound, derivative, or preparation
- 16 thereof which is chemically equivalent to or identical with any of
- 17 the substances referred to in subdivision (1) of this subdivision,
- 18 except that these substances shall not include the isoquinoline
- 19 alkaloids of opium;
- 20 (3) Opium poppy and poppy straw;
- 21 (4) Coca leaves and any salt, compound, derivative, or
- 22 preparation of coca leaves, and any salt, compound, derivative,
- 23 or preparation thereof which is chemically equivalent to or
- 24 identical with any of these substances, including cocaine and
- 25 its salts, optical isomers, and salts of optical isomers, except

1 that the substances shall not include decocainized coca leaves or
2 extractions which do not contain cocaine or ecgonine; and

3 (5) Concentrate of poppy straw, the crude extract of
4 poppy straw in either liquid, solid, or powder form which contains
5 the phenanthrene alkaloids of the opium poppy.

6 (b) Unless specifically excepted or unless in another
7 schedule any of the following opiates, including their isomers,
8 esters, ethers, salts, and salts of their isomers, esters, and
9 ethers whenever the existence of such isomers, esters, ethers,
10 and salts is possible within the specific chemical designation,
11 dextrorphan excepted:

12 (1) Alphaprodine;

13 (2) Anileridine;

14 (3) Bezitramide;

15 (4) Diphenoxylate;

16 (5) Fentanyl;

17 (6) Isomethadone;

18 (7) Levomethorphan;

19 (8) Levorphanol;

20 (9) Metazocine;

21 (10) Methadone;

22 (11) Methadone-Intermediate,
23 4-cyano-2-dimethylamino-4,4-diphenyl butane;

24 (12) Moramide-intermediate,
25 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;

- 1 (13) Pethidine or meperidine;
- 2 (14) Pethidine-Intermediate-A,
- 3 4-cyano-1-methyl-4-phenylpiperidine;
- 4 (15) Pethidine-Intermediate-B,
- 5 ethyl-4-phenylpiperidine-4-carboxylate;
- 6 (16) Pethidine-Intermediate-C,
- 7 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 8 (17) Phenazocine;
- 9 (18) Piminodine;
- 10 (19) Racemethorphan;
- 11 (20) Racemorphan;
- 12 (21) Dihydrocodeine;
- 13 (22) Bulk propoxyphene in nondosage forms;
- 14 (23) Sufentanil;
- 15 (24) Alfentanil;
- 16 (25) Levo-alpha-acetylmethadol which is also known as
- 17 levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;
- 18 (26) Carfentanil; and
- 19 (27) Remifentanil.
- 20 (c) Any material, compound, mixture, or preparation
- 21 which contains any quantity of the following substances having
- 22 a potential for abuse associated with a stimulant effect on the
- 23 central nervous system:
- 24 (1) Amphetamine, its salts, optical isomers, and salts of
- 25 its optical isomers;

1 (2) Phenmetrazine and its salts;

2 (3) Methamphetamine, its salts, isomers, and salts of its
3 isomers; and

4 (4) Methylphenidate.

5 (d) Any material, compound, mixture, or preparation
6 which contains any quantity of the following substances having
7 a potential for abuse associated with a depressant effect on the
8 central nervous system, including their salts, isomers, and salts
9 of isomers whenever the existence of such salts, isomers, and salts
10 of isomers is possible within the specific chemical designations:

11 (1) Amobarbital;

12 (2) Secobarbital;

13 (3) Pentobarbital;

14 (4) Phencyclidine; and

15 (5) Glutethimide.

16 (e) Hallucinogenic substances known as:

17 (1) Nabilone. Another name for
18 nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-
19 6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-
20 dibenzo(b,d)pyran-9-one.

21 (f) Unless specifically excepted or unless listed in
22 another schedule, any material, compound, mixture, or preparation
23 which contains any quantity of the following substances:

24 (1) Immediate precursor to amphetamine and
25 methamphetamine: Phenylacetone. Trade and other names shall

1 include, but are not limited to: Phenyl-2-propanone; P2P; benzyl
2 methyl ketone; and methyl benzyl ketone; or

3 (2) Immediate precursors to phencyclidine, PCP:

4 (i) 1-phenylcyclohexylamine; or

5 (ii) 1-piperidinocyclohexanecarbonitrile, PCC.

6 Schedule III

7 (a) Any material, compound, mixture, or preparation
8 which contains any quantity of the following substances having
9 a potential for abuse associated with a stimulant effect on the
10 central nervous system, including their salts, isomers, whether
11 optical, position, or geometric, and salts of such isomers whenever
12 the existence of such salts, isomers, and salts of isomers is
13 possible within the specific chemical designation:

14 (1) Benzphetamine;

15 (2) Chlorphentermine;

16 (3) Clortermine; and

17 (4) Phendimetrazine.

18 (b) Any material, compound, mixture, or preparation
19 which contains any quantity of the following substances having
20 a potential for abuse associated with a depressant effect on the
21 central nervous system:

22 (1) Any substance which contains any quantity of a
23 derivative of barbituric acid or any salt of a derivative of
24 barbituric acid, except those substances which are specifically
25 listed in other schedules of this section;

- 1 (2) Chlorhexadol;
- 2 (3) Lysergic acid;
- 3 (4) Lysergic acid amide;
- 4 (5) Methyprylon;
- 5 (6) Sulfondiethylmethane;
- 6 (7) Sulfonethylmethane;
- 7 (8) Sulfonmethane;
- 8 (9) Nalorphine;
- 9 (10) Any compound, mixture, or preparation containing
- 10 amobarbital, secobarbital, pentobarbital, or any salt thereof and
- 11 one or more other active medicinal ingredients which are not listed
- 12 in any schedule;
- 13 (11) Any suppository dosage form containing amobarbital,
- 14 secobarbital, pentobarbital, or any salt of any of these drugs and
- 15 approved by the Food and Drug Administration for marketing only as
- 16 a suppository;
- 17 (12) Any drug product containing gamma-hydroxybutyric
- 18 acid, including its salts, isomers, and salts of isomers, for which
- 19 an application is approved under section 505 of the Federal Food,
- 20 Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on
- 21 July 20, 2002;
- 22 (13) Ketamine, its salts, isomers, and
- 23 salts of isomers. Some other names for ketamine:
- 24 (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone; and
- 25 (14) Tiletamine and zolazepam or any salt thereof.

1 Trade or other names for a tiletamine-zolazepam combination
2 product shall include, but are not limited to: telazol. Trade
3 or other names for tiletamine shall include, but are not
4 limited to: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or
5 other names for zolazepam shall include, but are not limited
6 to: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e)
7 (1,4)-diazepin-7(1H)-one, and flupyrazapon.

8 (c) Unless specifically excepted or unless listed in
9 another schedule:

10 (1) Any material, compound, mixture, or preparation
11 containing limited quantities of any of the following narcotic
12 drugs, or any salts calculated as the free anhydrous base or
13 alkaloid, in limited quantities as set forth below:

14 (i) Not more than one and eight-tenths grams of codeine
15 per one hundred milliliters or not more than ninety milligrams per
16 dosage unit, with an equal or greater quantity of an isoquinoline
17 alkaloid of opium;

18 (ii) Not more than one and eight-tenths grams of codeine
19 per one hundred milliliters or not more than ninety milligrams per
20 dosage unit, with one or more active, nonnarcotic ingredients in
21 recognized therapeutic amounts;

22 (iii) Not more than three hundred milligrams of
23 dihydrocodeinone which is also known as hydrocodone per one hundred
24 milliliters or not more than fifteen milligrams per dosage unit,
25 with a fourfold or greater quantity of an isoquinoline alkaloid of

1 opium;

2 (iv) Not more than three hundred milligrams of
3 dihydrocodeinone which is also known as hydrocodone per one hundred
4 milliliters or not more than fifteen milligrams per dosage unit,
5 with one or more active, nonnarcotic ingredients in recognized
6 therapeutic amounts;

7 (v) Not more than one and eight-tenths grams of
8 dihydrocodeine per one hundred milliliters or not more than ninety
9 milligrams per dosage unit, with one or more active, nonnarcotic
10 ingredients in recognized therapeutic amounts;

11 (vi) Not more than three hundred milligrams of
12 ethylmorphine per one hundred milliliters or not more than fifteen
13 milligrams per dosage unit, with one or more active, nonnarcotic
14 ingredients in recognized therapeutic amounts;

15 (vii) Not more than five hundred milligrams of opium per
16 one hundred milliliters or per one hundred grams, or not more than
17 twenty-five milligrams per dosage unit, with one or more active,
18 nonnarcotic ingredients in recognized therapeutic amounts; and

19 (viii) Not more than fifty milligrams of morphine per
20 one hundred milliliters or per one hundred grams with one or more
21 active, nonnarcotic ingredients in recognized therapeutic amounts;
22 and

23 (2) Any material, compound, mixture, or preparation
24 containing any of the following narcotic drug or its salts, as
25 set forth below:

1 (i) Buprenorphine.

2 (d) Any Unless contained on the administration's list of
3 exempt anabolic steroids as the list existed on the operative date
4 of this section, any anabolic steroid, which shall include any
5 material, compound, mixture, or preparation containing any quantity
6 of the following substances, including its salts, isomers, and
7 salts of isomers whenever the existence of such salts of isomers is
8 possible within the specific chemical designation:

- 9 (1) Boldenone;
- 10 (2) Chlorotestosterone (4-chlortestosterone);
- 11 (3) Clostebol;
- 12 (4) Dehydrochlormethyltestosterone;
- 13 (5) Dihydrotestosterone (4-dihydrotestosterone);
- 14 (6) Drostanolone;
- 15 (7) Ethylestrenol;
- 16 (8) Fluoxymesterone;
- 17 (9) Formebolone (formebolone);
- 18 (10) Mesterolone;
- 19 (11) Methandienone;
- 20 (12) Methandranone;
- 21 (13) Methandriol;
- 22 (14) Methandrostenolone;
- 23 (15) Methenolone;
- 24 (16) Methyltestosterone;
- 25 (17) Mibolerone;

- 1 (18) Nandrolone;
- 2 (19) Norethandrolone;
- 3 (20) Oxandrolone;
- 4 (21) Oxymesterone;
- 5 (22) Oxymetholone;
- 6 (23) Stanolone;
- 7 (24) Stanozolol;
- 8 (25) Testolactone;
- 9 (26) Testosterone;
- 10 (27) Trenbolone; and
- 11 (28) Any salt, ester, or isomer of a drug or substance
- 12 described or listed in this subdivision if the salt, ester, or
- 13 isomer promotes muscle growth.

14 (e) Hallucinogenic substances known as:

- 15 (1) Dronabinol, synthetic, in sesame oil and encapsulated
- 16 in a soft gelatin capsule in a Food and Drug Administration
- 17 approved drug product. Some other names for dronabinol are
- 18 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo
- 19 (b,d)pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol.

20 Schedule IV

- 21 (a) Any material, compound, mixture, or preparation which
- 22 contains any quantity of the following substances, including their
- 23 salts, isomers, and salts of isomers whenever the existence of
- 24 such salts, isomers, and salts of isomers is possible within the
- 25 specific chemical designation:

- 1 (1) Barbital;
- 2 (2) Chloral betaine;
- 3 (3) Chloral hydrate;
- 4 (4) Chlordiazepoxide, but not including librax
- 5 (chlordiazepoxide hydrochloride and clindinium bromide) or menrium
- 6 (chlordiazepoxide and water soluble esterified estrogens);
- 7 (5) Clonazepam;
- 8 (6) Clorazepate;
- 9 (7) Diazepam;
- 10 (8) Ethchlorvynol;
- 11 (9) Ethinamate;
- 12 (10) Flurazepam;
- 13 (11) Mebutamate;
- 14 (12) Meprobamate;
- 15 (13) Methohexital;
- 16 (14) Methylphenobarbital;
- 17 (15) Oxazepam;
- 18 (16) Paraldehyde;
- 19 (17) Petrichloral;
- 20 (18) Phenobarbital;
- 21 (19) Prazepam;
- 22 (20) Alprazolam;
- 23 (21) Bromazepam;
- 24 (22) Camazepam;
- 25 (23) Clobazam;

- 1 (24) Clotiazepam;
- 2 (25) Cloxazolam;
- 3 (26) Delorazepam;
- 4 (27) Estazolam;
- 5 (28) Ethyl loflazepate;
- 6 (29) Fludiazepam;
- 7 (30) Flunitrazepam;
- 8 (31) Halazepam;
- 9 (32) Haloxazolam;
- 10 (33) Ketazolam;
- 11 (34) Loprazolam;
- 12 (35) Lorazepam;
- 13 (36) Lormetazepam;
- 14 (37) Medazepam;
- 15 (38) Nimetazepam;
- 16 (39) Nitrazepam;
- 17 (40) Nordiazepam;
- 18 (41) Oxazolam;
- 19 (42) Pinazepam;
- 20 (43) Temazepam;
- 21 (44) Tetrazepam;
- 22 (45) Triazolam;
- 23 (46) Midazolam;
- 24 (47) Quazepam;
- 25 (48) Zolpidem;

1 (49) Dichloralphenazone; and

2 (50) Zaleplon.

3 (b) Any material, compound, mixture, or preparation which
4 contains any quantity of the following substance, including its
5 salts, isomers, whether optical, position, or geometric, and salts
6 of such isomers, whenever the existence of such salts, isomers, and
7 salts of isomers is possible: Fenfluramine.

8 (c) Unless specifically excepted or unless listed in
9 another schedule, any material, compound, mixture, or preparation
10 which contains any quantity of the following substances having a
11 stimulant effect on the central nervous system, including their
12 salts, isomers, whether optical, position, or geometric, and salts
13 of such isomers whenever the existence of such salts, isomers,
14 and salts of isomers is possible within the specific chemical
15 designation:

16 (1) Diethylpropion;

17 (2) Phentermine;

18 (3) Pemoline, including organometallic complexes and
19 chelates thereof;

20 (4) Mazindol;

21 (5) Pipradrol;

22 (6) SPA, ((-)-1-dimethylamino- 1,2-diphenylethane);

23 (7) Cathine. Another name for cathine is
24 ((+)-norpseudoephedrine);

25 (8) Fencamfamin;

1 (9) Fenproporex;

2 (10) Mefenorex;

3 (11) Modafinil; and

4 (12) Sibutramine.

5 (d) Unless specifically excepted or unless listed in
6 another schedule, any material, compound, mixture, or preparation
7 which contains any quantity of the following narcotic drugs, or
8 their salts or isomers calculated as the free anhydrous base or
9 alkaloid, in limited quantities as set forth below:

10 (1) Propoxyphene in manufactured dosage forms; and

11 (2) Not more than one milligram of difenoxin and not less
12 than twenty-five micrograms of atropine sulfate per dosage unit.

13 (e) Unless specifically excepted or unless listed in
14 another schedule, any material, compound, mixture, or preparation
15 which contains any quantity of the following substance, including
16 its salts: Pentazocine.

17 (f) Unless specifically excepted or unless listed in
18 another schedule, any material, compound, mixture, or preparation
19 which contains any quantity of the following substance, including
20 its salts, isomers, and salts of such isomers: Butorphanol.

21 (g)(1) Unless specifically excepted or unless listed in
22 another schedule, any material, compound, mixture, or preparation
23 which contains any quantity of the following substance, including
24 its salts, optical isomers, and salts of such optical isomers:
25 Ephedrine.

1 (2) The following drug products containing ephedrine,
2 its salts, optical isomers, and salts of such optical isomers
3 are excepted from subdivision (g)(1) of Schedule IV if they may
4 lawfully be sold over the counter without a prescription under
5 the Federal Food, Drug, and Cosmetic Act, as the act existed on
6 September 1, 2001; are labeled and marketed in a manner consistent
7 with the pertinent OTC Tentative Final or Final Monograph; are
8 manufactured and distributed for legitimate medicinal use in a
9 manner that reduces or eliminates the likelihood of abuse; and
10 are not marketed, advertised, or represented in any manner for the
11 indication of stimulation, mental alertness, euphoria, ecstasy, a
12 buzz or high, heightened sexual performance, or increased muscle
13 mass:

- 14 (A) Primatene Tablets;
15 (B) Bronkaid Dual Action Caplets; and
16 (C) Pazo Hemorrhoidal Ointment.

17 (3) Food and dietary supplements described in 21 U.S.C.
18 321, as such section existed on September 1, 2001, containing
19 ephedrine, including its salts, optical isomers, and salts of such
20 optical isomers, are excepted from subdivision (g)(1) of Schedule
21 IV if:

22 (A) They are labeled in a manner consistent with section
23 28-448 and bear the statements: "This statement has not been
24 evaluated by the Food and Drug Administration. This product is not
25 intended to diagnose, treat, cure, or prevent any disease.";

1 (B) Any dosage form of the food or dietary supplements
2 (i) does not contain any hydrochloride or sulfate salts of
3 ephedrine alkaloids, (ii) does not contain more than twenty-five
4 milligrams of ephedrine alkaloids, and (iii) does not contain
5 ephedrine alkaloids in excess of five percent of the total capsule
6 weight;

7 (C) They are not marketed, advertised, or represented in
8 any manner for the indication of stimulation, mental alertness,
9 euphoria, ecstasy, a buzz or high, heightened sexual performance,
10 or increased muscle mass; and

11 (D) Analysis of the product is provided to the department
12 to ensure that the product meets the requirements of subdivision
13 (g) (3) (B) of Schedule IV.

14 Schedule V

15 (a) Any compound, mixture, or preparation containing any
16 of the following limited quantities of narcotic drugs or salts
17 calculated as the free anhydrous base or alkaloid, which shall
18 include one or more nonnarcotic active medicinal ingredients in
19 sufficient proportion to confer upon the compound, mixture, or
20 preparation valuable medicinal qualities other than those possessed
21 by the narcotic drug alone:

22 (1) Not more than two hundred milligrams of codeine per
23 one hundred milliliters or per one hundred grams;

24 (2) Not more than one hundred milligrams of
25 dihydrocodeine per one hundred milliliters or per one hundred

1 grams;

2 (3) Not more than one hundred milligrams of ethylmorphine
3 per one hundred milliliters or per one hundred grams;

4 (4) Not more than two and five-tenths milligrams of
5 diphenoxylate and not less than twenty-five micrograms of atropine
6 sulfate per dosage unit;

7 (5) Not more than one hundred milligrams of opium per one
8 hundred milliliters or per one hundred grams; and

9 (6) Not more than five-tenths milligram of difenoxin and
10 not less than twenty-five micrograms of atropine sulfate per dosage
11 unit.

12 (b) Unless specifically exempted or excluded or unless
13 listed in another schedule, any material, compound, mixture, or
14 preparation which contains any quantity of the following substances
15 having a stimulant effect on the central nervous system, including
16 its salts, isomers, and salts of isomers: Pyrovalerone.

17 Sec. 3. Section 28-412, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 28-412 (1) It is unlawful to prescribe any narcotic drug
20 listed in section 28-405, except buprenorphine, for the purpose
21 of detoxification treatment or maintenance treatment except as
22 provided in this section.

23 (2) A narcotic drug may be administered or dispensed
24 to a narcotic-dependent person for detoxification treatment or
25 maintenance treatment by a practitioner who is registered to

1 provide detoxification treatment or maintenance treatment pursuant
2 to section 28-406.

3 (3) A narcotic drug may be administered or dispensed
4 to a narcotic-dependent person when necessary to relieve acute
5 withdrawal symptoms pending the referral of such person for
6 detoxification treatment or maintenance treatment by a physician
7 who is not registered to provide detoxification treatment or
8 maintenance treatment under section 28-406. Not more than one
9 day's supply of narcotic drugs shall be administered or dispensed
10 for such person's use at one time. Such treatment shall not be
11 continued for more than three successive calendar days and may not
12 be renewed or extended.

13 (4) A narcotic drug may be administered or dispensed in a
14 hospital to maintain or detoxify a person as an incidental adjunct
15 to medical or surgical treatment conditions other than dependence.

16 (5) Any person who violates this section is guilty of a
17 Class IV felony.

18 (6) For purposes of this section:

19 (a) Detoxification treatment means the administering
20 or dispensing of a narcotic drug in decreasing doses to a
21 person for a specified period of time to alleviate adverse
22 physiological or psychological effects incident to withdrawal from
23 the continuous or sustained use of a narcotic drug and to bring
24 such person to a narcotic drug-free state within such period of
25 time. Detoxification treatment includes short-term detoxification

1 treatment and long-term detoxification treatment;

2 (b) Long-term detoxification treatment means
3 detoxification treatment for a period of more than thirty days but
4 not more than one hundred eighty days;

5 (c) Maintenance treatment means the administering
6 or dispensing of a narcotic drug in the treatment of a
7 narcotic-dependent person for a period of more than twenty-one
8 days; and

9 (d) Short-term detoxification treatment means
10 detoxification treatment for a period of not more than
11 thirty days.

12 Sec. 4. Section 43-102, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-102 Except as otherwise provided in the Nebraska
15 Indian Child Welfare Act, any person or persons desiring to adopt
16 a minor child or an adult child shall file a petition for adoption
17 signed and sworn to by the person or persons desiring to adopt.
18 The consent or consents required by sections 43-104 and 43-105
19 or section 43-104.07, the documents required by section 43-104.07
20 or the documents required by sections 43-104.08 to 43-104.24 and
21 section 18 of this act, and a completed preplacement adoptive home
22 study if required by section 43-107 shall be filed prior to the
23 hearing required in section 43-103.

24 The county court of the county in which the person or
25 persons desiring to adopt ~~the~~ a child reside has jurisdiction of

1 adoption proceedings, except that if a separate juvenile court
2 already has jurisdiction over the child to be adopted under the
3 Nebraska Juvenile Code, such separate juvenile court has concurrent
4 jurisdiction with the county court in such adoption proceeding.
5 If a child to be adopted is a ward of any court or a ward of
6 the state at the time of placement and at the time of filing an
7 adoption petition, the person or persons desiring to adopt shall
8 not be required to be residents of Nebraska. The petition and
9 all other court filings for an adoption proceeding shall be filed
10 with the clerk of the county court. The party shall state in the
11 petition whether such party requests that the proceeding be heard
12 by the county court or, in cases in which a separate juvenile
13 court already has jurisdiction over the child to be adopted under
14 the Nebraska Juvenile Code, such separate juvenile court. Such
15 proceeding is considered a county court proceeding even if heard
16 by a separate juvenile court judge and an order of the separate
17 juvenile court in such adoption proceeding has the force and effect
18 of a county court order. The testimony in an adoption proceeding
19 heard before a separate juvenile court judge shall be preserved
20 as in any other separate juvenile court proceeding. The clerks of
21 the district courts shall transfer all adoption petitions and other
22 adoption filings which were filed with such clerks prior to August
23 28, 1999, to the clerk of the county court where the separate
24 juvenile court which heard the proceeding is situated. The clerk of
25 such county court shall file and docket such petitions and other

1 filings.

2 Except as set out in subdivisions (1)(b)(ii), (iii),
3 (iv), and (v) of section 43-107, an adoption decree shall not be
4 issued until at least six months after an adoptive home study has
5 been completed by the department or a licensed child placement
6 agency.

7 Sec. 5. Section 43-104, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-104 (1) Except as otherwise provided in this section
10 and in the Nebraska Indian Child Welfare Act, no adoption shall
11 be decreed unless written consents thereto are filed in the county
12 court of the county in which the person or persons desiring to
13 adopt reside or in the county court in which the separate juvenile
14 court having jurisdiction over the custody of the child is located
15 and the written consents are executed by ~~(1)~~ (a) the minor child,
16 if over fourteen years of age, or the adult child, ~~(2)~~ (b) any
17 district court, county court, or separate juvenile court in the
18 State of Nebraska having jurisdiction of the custody of a minor
19 child by virtue of proceedings had in any district court, county
20 court, or separate juvenile court in the State of Nebraska or by
21 virtue of the Uniform Child Custody Jurisdiction and Enforcement
22 Act, and ~~(3)~~ (c) both parents of a child born in lawful wedlock
23 if living, the surviving parent of a child born in lawful wedlock,
24 the mother of a child born out of wedlock, or both the mother
25 and father of a child born out of wedlock as determined pursuant

1 to sections 43-104.08 to 43-104.24 and section 18 of this act. On
2 and after April 20, 2002, a written consent or relinquishment for
3 adoption under this section shall not be valid unless signed at
4 least forty-eight hours after the birth of the child. ~~7 except that~~
5 ~~consent~~

6 (2) Consent shall not be required of any parent who (a)
7 has relinquished the child for adoption by a written instrument,
8 (b) has abandoned the child for at least six months next preceding
9 the filing of the adoption petition, (c) has been deprived of his
10 or her parental rights to such child by the order of any court
11 of competent jurisdiction, or (d) is incapable of consenting. ~~On~~
12 ~~and after April 20, 2002, a written consent or relinquishment for~~
13 ~~adoption under this section shall not be valid unless signed at~~
14 ~~least forty-eight hours after the birth of the child.~~

15 (3) Consent shall not be required of a putative father
16 who has failed to timely file (a) a Notice of Objection to
17 Adoption and Intent to Obtain Custody pursuant to section 43-104.02
18 and, with respect to the absence of such filing, a certificate
19 has been filed pursuant to section 43-104.04 or (b) a petition
20 pursuant to section 43-104.05 for the adjudication of such notice
21 and a determination of whether his consent to the adoption is
22 required and the mother of the child has timely executed a
23 valid relinquishment and consent to the adoption pursuant to such
24 section.

25 (4) Consent shall not be required of an adjudicated or

1 putative father who is not required to consent to the adoption
2 pursuant to section 43-104.22.

3 Sec. 6. Section 43-104.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-104.01 (1) The Department of Health and Human Services
6 ~~Finance and Support~~ shall establish a biological father registry.
7 The department shall maintain such registry and which shall record
8 the names and addresses of (a) any person adjudicated by a court
9 of this state or by a court of another state or territory of
10 the United States to be the biological father of a child born
11 out of wedlock if a certified copy of the court order is filed
12 with the registry by such person or any other person, (b) any
13 ~~person~~ putative father who has filed with the registry, prior to
14 ~~notification~~ the receipt of notice under sections 43-104.12 to
15 43-104.16, a ~~paternity claim for notification purposes for~~ Request
16 for Notification of Intended Adoption with respect to such child,
17 and (c) any ~~person~~ putative father who has filed with the registry
18 a ~~notice of intent to claim paternity and obtain custody of~~ Notice
19 of Objection to Adoption and Intent to Obtain Custody with respect
20 to such child., and (d) any person adjudicated by a court of
21 another state or territory of the United States to be the father of
22 such child, if a certified copy of the court order has been filed
23 with the registry by that person or any other person.

24 (2) A ~~paternity claim for notification purposes or a~~
25 ~~notice of intent to claim paternity and obtain custody~~ Request

1 for Notification of Intended Adoption or a Notice of Objection to
2 Adoption and Intent to Obtain Custody filed with the registry shall
3 include (a) the claimant's putative father's name, and address,
4 and social security number, (b) the name and last-known address
5 of the mother, and (c) the month and year of the birth or the
6 expected birth of the child, (d) the case name, court name, and
7 location of any Nebraska court having jurisdiction over the custody
8 of the child, and (e) a statement by the putative father that
9 he acknowledges liability for contribution to the support and
10 education of the child after birth and for contribution to the
11 pregnancy-related medical expenses of the mother of the child.
12 The person filing the notice shall notify the registry of any
13 change of address pursuant to procedures prescribed by in rules and
14 regulations of the department.

15 (3) A request or notice filed under this section or
16 section 43-104.02 shall be admissible in any action for paternity
17 and shall estop the putative father from denying paternity of such
18 child thereafter.

19 (4) Any person filing putative father who files a
20 paternity claim for notification purposes or a notice of intent
21 to claim paternity and obtain custody Request for Notification of
22 Intended Adoption or a Notice of Objection to Adoption and Intent
23 to Obtain Custody with the biological father registry may revoke
24 such ~~notice, and upon~~ filing. Upon receipt of such revocation by
25 the registry, the effect shall be as if no filing had ever been

1 made.

2 ~~(4)~~ (5) The department shall not divulge the names and
3 addresses of persons listed with the biological father registry to
4 any other person except as authorized by law or upon order of a
5 court of competent jurisdiction for good cause shown.

6 ~~(5)~~ (6) The department may develop information about
7 the registry and may distribute such information, through ~~their~~
8 its existing publications, to the news media and the public.
9 The department may provide information about the registry to the
10 Department of Correctional Services, ~~the Department of Health and~~
11 ~~Human Services,~~ and the Department of Health and Human Services
12 ~~Regulation and Licensure,~~ ~~who~~ which may distribute such information
13 through ~~their~~ its existing publications.

14 (7) A person who has been adjudicated by a Nebraska court
15 of competent jurisdiction to be the biological father of a child
16 born out of wedlock who is the subject of a proposed adoption shall
17 not be construed to be a putative father for purposes of sections
18 43-104.01 to 43-104.05 and shall not be subject to the provisions
19 of such sections as applied to such fathers. Whether such person's
20 consent is required for the proposed adoption shall be determined
21 by the Nebraska court having jurisdiction over the custody of
22 the child pursuant to section 43-104.22, as part of proceedings
23 required under section 43-104 to obtain the court's consent to such
24 adoption.

25 Sec. 7. Section 43-104.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-104.02 As provided in section 43-104.01, a person
3 claiming to be the father of the child and who intends to claim
4 paternity and obtain custody of the child shall file with the
5 biological father registry maintained by the Department of Health
6 and Human Services Finance and Support on forms provided by the
7 department, A Notice of Objection to Adoption and Intent to Obtain
8 Custody shall be filed with the biological father registry under
9 section 43-104.01 on forms provided by the Department of Health and
10 Human Services (1) within five business days after the birth of the
11 child, or (2) if notice is provided after the birth of the child
12 (a) within five business days after receipt of the notice provided
13 under section 43-104.12 contemplated in section 43-104.12, or (b)
14 within five business days after the last date of any published
15 notice provided pursuant to under section 43-104.14, whichever
16 notice is later, a notice of intent to claim paternity and obtain
17 custody. earlier. Such notice shall include the social security
18 number of the person claiming to be the father. A notice of
19 intent to claim paternity and obtain custody of the child shall be
20 considered to have been filed if it is received by the Department
21 of Health and Human Services Finance and Support department or
22 postmarked prior to the end of the fifth business day contemplated
23 as provided in this section.

24 Sec. 8. Section 43-104.03, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 43-104.03 Within three days after the filing of a
2 ~~paternity claim for notification purposes or a notice of intent~~
3 ~~to claim paternity and obtain custody~~ Request for Notification of
4 Intended Adoption or a Notice of Objection to Adoption and Intent
5 to Obtain Custody with the biological father registry pursuant
6 to sections 43-104.01 and 43-104.02, the ~~Director of Finance and~~
7 ~~Support~~ Department of Health and Human Services shall cause a
8 certified copy of such request or notice to be mailed by certified
9 mail to (1) the mother or prospective mother of such child at the
10 last-known address shown on the request or notice or ~~(2)~~ an agent
11 specifically designated in writing by the mother or prospective
12 mother to receive such request or notice and (2) any Nebraska
13 court identified by the putative father under section 43-104.01
14 as having jurisdiction over the custody of the child. The notice
15 shall be admissible in any action for paternity, shall estop the
16 claimant from denying paternity of such child thereafter, and
17 shall contain language that the claimant acknowledges liability for
18 contribution to the support and education of the child after birth
19 and for contribution to the pregnancy-related medical expenses of
20 the mother.

21 Sec. 9. Section 43-104.04, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-104.04 If a notice of intent to claim paternity and
24 ~~obtain custody~~ Notice of Objection to Adoption and Intent to Obtain
25 Custody is not timely filed with the biological father registry

1 pursuant to section 43-104.02, the mother of a child born out
2 of wedlock or an agent specifically designated in writing by the
3 mother may request, and the Department of Health and Human Services
4 ~~Finance and Support~~ shall supply, a certificate that no such notice
5 ~~of intent to claim paternity and obtain custody~~ has been filed
6 with the biological father registry. The ~~and the~~ filing of such
7 certificate pursuant to section 43-102 shall eliminate the need
8 or necessity of a consent or relinquishment for adoption by the
9 ~~natural~~ putative father of such child.

10 Sec. 10. Section 43-104.05, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-104.05 (1) ~~If a notice of intent to claim paternity~~
13 ~~and obtain custody~~ Notice of Objection to Adoption and Intent to
14 Obtain Custody is timely filed with the biological father registry
15 pursuant to section 43-104.02, either the ~~claimant-father,~~ putative
16 father, the mother, or her agent specifically designated in writing
17 shall, within thirty days after the ~~filing the~~ of such notice,
18 file a petition for ~~an adjudication of the claim of paternity and~~
19 ~~right to custody.~~ adjudication of the notice and a determination of
20 whether the putative father's consent to the proposed adoption is
21 required. The petition shall be filed in the county court in the
22 county where such child was born or, if a separate juvenile court
23 already has jurisdiction over the custody of the child, in the
24 county court of the county in which such separate juvenile court is
25 located.

1 (2) If such a petition is not filed within thirty days
2 after the filing the of such notice and the mother of the child has
3 executed a valid relinquishment and consent to the adoption within
4 sixty days of the filing of such notice, the claimant-father's
5 putative father's consent to adoption of the child shall not be
6 required, he is not entitled to any further notice of the adoption
7 proceedings, and any alleged parental rights of the claimant-father
8 and responsibilities of the putative father shall not be recognized
9 thereafter in any court.

10 (3) After the timely filing of such petition, the court
11 shall set a trial date upon proper notice to the parties not
12 less than twenty nor more than thirty days after the date of
13 such filing. If the mother contests the putative father's claim
14 of paternity, the court shall take such testimony as shall enable
15 it to determine the facts. The claimant-father's rights and the
16 custody of the child order DNA testing to establish whether the
17 putative father is the biological father. The court shall assess
18 the costs of such testing between the parties in an equitable
19 manner. Whether the putative father's consent to the adoption is
20 required shall be determined pursuant to section 43-104.22. The
21 court shall appoint a guardian ad litem to represent the best
22 interests of the child.

23 (4)(a) The county court of the county where the child
24 was born or the separate juvenile court having jurisdiction over
25 the custody of the child shall have jurisdiction over proceedings

1 under this section from the date of notice provided under section
2 43-104.12 or the last date of published notice under section
3 43-104.14, whichever notice is earlier, until thirty days after the
4 conclusion of adoption proceedings concerning the child, including
5 appeals, unless such jurisdiction is transferred under subdivision
6 (b) of this subsection.

7 (b) Except as otherwise provided in this subdivision, the
8 court shall, upon the motion of any party, transfer the case to the
9 district court for further proceedings on the matters of custody,
10 visitation, and child support with respect to such child if (i)
11 such court determines under section 43-104.22 that the consent of
12 the putative father is required for adoption of the minor child
13 and the putative father refuses such consent or (ii) the mother of
14 the child, within thirty days after the conclusion of proceedings
15 under this section, including appeals, has not executed a valid
16 relinquishment and consent to the adoption. The court, upon its own
17 motion, may retain the case for good cause shown.

18 Sec. 11. Section 43-104.08, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-104.08 Whenever a child is claimed to be born out of
21 wedlock and the biological mother contacts an adoption agency or
22 attorney to relinquish her rights to the child, or the biological
23 mother joins in a petition for adoption to be filed by her husband,
24 the agency or attorney contacted shall attempt to establish the
25 identity of the biological father and further attempt to inform

1 the biological father of his right to execute a relinquishment and
2 consent to adoption, or a denial of paternity and waiver of rights,
3 in the form mandated by section 43-106, pursuant to sections
4 43-104.08 to 43-104.24 and section 18 of this act.

5 Sec. 12. Section 43-104.09, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-104.09 In all cases of adoption of a minor child
8 born out of wedlock, the biological mother shall complete and
9 sign an affidavit in writing and under oath. The affidavit shall
10 be executed by the biological mother before or at the time of
11 execution of the consent or relinquishment and shall be attached
12 as an exhibit to any petition to finalize the adoption. If the
13 biological mother is under the age of nineteen, the affidavit may
14 be executed by the agency or attorney representing the biological
15 mother based upon information provided by the biological mother.
16 The affidavit shall be in substantially the following form:

17 AFFIDAVIT OF IDENTIFICATION

18 I,, the mother of a child, state under
19 oath or affirm as follows:

20 (1) My child was born, or is expected to be born, on the
21 day of, at, in
22 the State of

23 (2) I reside at, in the City or Village
24 of, County of, State of
25

1 (3) I am of the age of years, and my date of
2 birth is

3 (4) I acknowledge that I have been asked to identify the
4 father of my child.

5 (5) (CHOOSE ONE)

6 (5A) I know and am identifying the biological father (or
7 possible biological fathers) as follows:

8 The name of the biological father is

9 His last-known home address is

10 His last-known work address is

11 He is years of age, or he is deceased,
12 having died on or about the day of,
13, at, in the State of
14

15 He has been adjudicated to be the biological father by
16 the Court of county, State
17 of, case name, docket number
18

19 (For other possible biological fathers, please use
20 additional sheets of paper as needed.)

21 (5B) I am unwilling or unable to identify the biological
22 father (or possible biological fathers). I do not wish or I am
23 unable to name the biological father of the child for the following
24 reasons:

25 Conception of my child occurred as a result of

1 sexual assault or incest

2 Providing notice to the biological father of
3 my child would threaten my safety or the safety of my child

4 Other reason:

5 (6) If the biological mother is unable to name the
6 biological father, the physical description of the biological
7 father (or possible biological fathers) and other information which
8 may assist in identifying him, including the city or county and
9 state where conception occurred:

10

11

12

13 (use additional sheets of paper as needed).

14 (7) Under penalty of perjury, the undersigned certifies
15 that the statements set forth in this affidavit are true and
16 correct.

17 (8) I have read this affidavit and have had the
18 opportunity to review and question it. It was explained to me
19 by

20 I am signing it as my free and voluntary act and
21 understand the contents and the effect of signing it.

22 Dated this day of,

23 (Acknowledgment)

24

25 (Signature)

1 Sec. 13. Section 43-104.12, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-104.12 In order to attempt to inform the biological
4 father or possible biological fathers of the right to execute a
5 relinquishment and consent to adoption or a denial of paternity
6 and waiver of rights, the agency or attorney representing the
7 biological mother shall notify, by registered or certified mail,
8 restricted delivery, return receipt requested:

9 (1) Any person adjudicated by a court in this state or by
10 a court in another state or territory of the United States to be
11 the biological father of the child;

12 (2) Any person who has filed a ~~paternity claim for~~
13 ~~notification purposes or a notice of intent to claim paternity~~
14 ~~and obtain custody~~ Request for Notification of Intended Adoption
15 or a Notice of Objection to Adoption and Intent to Obtain Custody
16 pursuant to sections 43-104.01 and 43-104.02;

17 (3) Any person who is recorded on the child's birth
18 certificate as the child's father;

19 (4) Any person who might be the biological father of
20 the child who was openly living with the child's biological mother
21 within the twelve months prior to the birth of the child;

22 (5) Any person who has been identified as the biological
23 father or possible biological father of the child by the child's
24 biological mother pursuant to section 43-104.09;

25 (6) Any person who was married to the child's biological

1 mother within six months prior to the birth of the child and prior
2 to the execution of the relinquishment; and

3 (7) Any other person who the agency or attorney
4 representing the biological mother may have reason to believe may
5 be the biological father of the child.

6 Sec. 14. Section 43-104.13, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-104.13 The notice sent by the agency or attorney
9 pursuant to section 43-104.12 shall be served sufficiently in
10 advance of the birth of the child, whenever possible, to allow
11 compliance with subdivision (1) of section 43-104.02 and shall
12 state:

13 (1) The biological mother's name, the fact that she is
14 pregnant or has given birth to the child, and the expected or
15 actual date of delivery;

16 (2) That the child has been relinquished by the
17 biological mother, that she intends to execute a relinquishment,
18 or that the biological mother has joined or plans to join in a
19 petition for adoption to be filed by her husband;

20 (3) That the person being notified has been identified as
21 a possible biological father of the child;

22 (4) That the possible biological father may have certain
23 rights with respect to such child if he is in fact the biological
24 father;

25 (5) That the possible biological father has the right to

1 (a) deny paternity, (b) waive any parental rights he may have,
2 (c) relinquish and consent to adoption of the child, ~~or~~ (d) file
3 a notice of intent to claim paternity and obtain custody of the
4 child Notice of Objection to Adoption and Intent to Obtain Custody
5 pursuant to section 43-104.02, or (e) object to the adoption in
6 a proceeding before any Nebraska court which has, prior to his
7 receipt of this notice, adjudicated him to be the biological father
8 of the child;

9 (6) That to deny paternity, to waive his parental rights,
10 or to relinquish and consent to the adoption, the biological father
11 must contact the undersigned agency or attorney representing the
12 biological mother, and that if he wishes to object to the adoption
13 and seek custody of the child he should seek legal counsel from his
14 own attorney immediately; and

15 (7) That if he is the biological father and if the child
16 is not relinquished for adoption, he has a duty to contribute to
17 the support and education of the child and to the pregnancy-related
18 expenses of the mother and a right to seek visitation.

19 The agency or attorney representing the biological mother
20 may enclose with the notice a document which is an admission
21 or denial of paternity and a waiver of rights by the biological
22 father, which the biological father may choose to complete, in
23 the form mandated by section 43-106, and return to the agency or
24 attorney.

25 Sec. 15. Section 43-104.14, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-104.14 (1) If the agency or attorney representing the
3 biological mother is unable through reasonable efforts to locate
4 and serve notice on the biological father or possible biological
5 fathers as contemplated in sections 43-104.12 and 43-104.13, the
6 agency or attorney shall notify the biological father or possible
7 biological fathers by publication.

8 (2) The publication shall be made once a week for three
9 consecutive weeks in a legal newspaper of general circulation in
10 the Nebraska county or county of another state which is most likely
11 to provide actual notice to the biological father. The publication
12 shall include:

13 (a) The first name or initials of the father or possible
14 father or the entry "John Doe, real name unknown", if applicable;

15 (b) A description of the father or possible father if his
16 first name is or initials are unknown;

17 (c) The approximate date of conception of the child and
18 the city and state in which conception occurred, if known;

19 (d) The date of birth or expected birth of the child;

20 (e) That he has been identified as the biological father
21 or possible biological father of a child whom the biological mother
22 currently intends to place for adoption and the approximate date
23 that placement will occur;

24 (f) That he has the right to (i) deny paternity, (ii)
25 waive any parental rights he may have, (iii) relinquish and

1 consent to adoption of the child, (iv) file a Notice of Objection
2 to Adoption and Intent to Obtain Custody pursuant to section
3 43-104.02, or (v) object to the adoption in a proceeding before
4 any Nebraska court which has adjudicated him to be the biological
5 father of the child prior to his receipt of notice; and ~~or (iv)~~
6 ~~file a notice of intent to claim paternity and obtain custody of~~
7 ~~the child within five business days of the birth of the child~~
8 ~~or within five business days of this notice, whichever is later,~~
9 ~~pursuant to section 43-104.02, and~~

10 (g) That (i) in order to deny paternity, waive his
11 parental rights, relinquish and consent to the adoption, or receive
12 additional information to determine whether he is the father of
13 the child in question, he must contact the undersigned agency or
14 attorney representing the biological mother and (ii) if he wishes
15 to object to the adoption and seek custody of the child, he must
16 seek legal counsel from his own attorney immediately.

17 Sec. 16. Section 43-104.17, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 43-104.17 In all cases of adoption of a minor child
20 born out of wedlock, the petition to finalize the adoption
21 shall specifically allege compliance with sections 43-104.08 to
22 43-104.16, and shall attach as exhibits all documents which are
23 evidence of such compliance. No notice of the filing of the
24 petition to finalize or the hearing on the petition shall be
25 given to a biological father or ~~possible~~ putative biological father

1 who (1) executed a valid relinquishment and consent or a valid
2 denial of paternity and waiver of rights pursuant to section
3 43-104.11, ~~or~~ (2) was provided notice under sections 43-104.12 to
4 43-104.14 and failed to timely file ~~an intent to claim paternity~~
5 ~~and obtain custody~~ a Notice of Objection to Adoption and Intent to
6 Obtain Custody pursuant to section 43-104.02 or petition pursuant
7 to section 43-104.05, or (3) is not required to consent to the
8 adoption pursuant to proceedings conducted under section 43-104.22.

9 Sec. 17. Section 43-104.22, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-104.22 At any hearing to determine a biological
12 ~~father's parental rights to the child, the court shall receive~~
13 ~~evidence with regard to the biological father's actual paternity of~~
14 ~~the child and whether he is a fit, proper, and suitable custodial~~
15 ~~parent for the child. The court shall the parental rights of an~~
16 ~~adjudicated biological father or putative biological father of a~~
17 ~~minor child born out of wedlock and whether such father's consent~~
18 ~~is required for the adoption of such child, the court shall receive~~
19 ~~evidence with regard to the actual paternity of the child and~~
20 ~~whether such father is a fit, proper, and suitable custodial parent~~
21 ~~for the child. The court shall determine that the biological such~~
22 ~~father's consent is not required for a valid adoption of the child~~
23 ~~upon a finding of one or more of the following:~~

24 (1) The father abandoned or neglected the child after
25 having knowledge of the child's birth;

1 (2) The father is not a fit, proper, and suitable
2 custodial parent for the child;

3 (3) The father had knowledge of the child's birth and
4 failed to provide reasonable financial support for the mother or
5 child;

6 (4) The father abandoned the mother without reasonable
7 cause and with knowledge of the pregnancy;

8 (5) The father had knowledge of the pregnancy and failed
9 to provide reasonable support for the mother during the pregnancy;

10 (6) The child was conceived as a result of a
11 nonconsensual sex act or an incestual act;

12 (7) Notice was provided pursuant to sections 43-104.12
13 to 43-104.14 and the putative father failed to timely file ~~an~~
14 ~~intent to claim paternity and obtain custody~~ a Notice of Objection
15 to Adoption and Intent to Obtain Custody pursuant to section
16 43-104.02;

17 (8) The putative father failed to timely file a petition
18 to adjudicate ~~his claim of paternity and right to custody~~ a Notice
19 of Objection to Adoption and Intent to Obtain Custody pursuant to
20 ~~as contemplated in section 43-104.05; or~~

21 (9) Notice was provided to an adjudicated biological
22 father through service of process under applicable state law and he
23 failed to object to the adoption or failed to appear at the hearing
24 conducted under section 18 of this act;

25 (10) The father executed a valid relinquishment or

1 consent to adoption; or

2 (11) The man is not, in fact, the biological father of
3 the child.

4 The court shall determine the custody of the child
5 according to the best interest of the child, weighing the superior
6 rights of a biological parent who has been found to be a fit,
7 proper, and suitable parent against any detriment the child would
8 suffer if removed from the custody of persons with whom the child
9 has developed a substantial relationship.

10 Sec. 18. With respect to any person who has been
11 adjudicated by a Nebraska court of competent jurisdiction to
12 be the biological father of a child born out of wedlock who is the
13 subject of a proposed adoption:

14 (1) Such person shall not be construed to be a putative
15 father for purposes of sections 43-104.01 to 43-104.05 and shall
16 not be subject to the provisions of such sections as applied to
17 such fathers; and

18 (2)(a) If the adjudicated biological father has been
19 provided notice in substantial compliance with section 43-104.12
20 or section 43-104.14, whichever notice is earlier, and he has not
21 executed a valid relinquishment or consent to the adoption, the
22 mother or lawful custodian of the child or his or her agent shall
23 file a motion in the court with jurisdiction of the custody of
24 the child for a hearing to determine whether such father's consent
25 to the adoption is required and whether the court shall give its

1 consent to the adoption;

2 (b) Notice of the motion and hearing shall be served
3 on the adjudicated biological father in the manner provided for
4 service of process under applicable state law; and

5 (c) Within thirty days after service of notice under
6 subdivision (b) of this subdivision, the court shall conduct an
7 evidentiary hearing to determine whether the adjudicated biological
8 father's consent to the adoption is required and whether the court
9 shall give its consent to the adoption. Whether such father's
10 consent is required for the proposed adoption shall be determined
11 pursuant to section 43-104.22.

12 Sec. 19. Section 43-105, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-105 (1) If consent is not required of both parents
15 of a child born in lawful wedlock if living, the surviving parent
16 of a child born in lawful wedlock, or the mother or mother and
17 father of a child born out of wedlock, because of the provisions of
18 subdivision ~~(3)~~ (1)(c) of section 43-104, substitute consents shall
19 be filed as follows:

20 ~~(1)~~ (a) Consent to the adoption of a minor child who
21 has been committed to the Department of Health and Human Services
22 may be given by the department or its duly authorized agent in
23 accordance with section 43-906;

24 ~~(2)~~ when (b) When a parent has relinquished a minor child
25 for adoption to any child placement agency licensed or approved

1 by the department or its duly authorized agent, consent to the
2 adoption of such child may be given by such agency; and

3 ~~(3)~~ ~~in~~ (c) In all other cases when consent cannot be
4 given as provided in subdivision ~~(3)~~ (1)(c) of section 43-104,
5 consent shall be given by the guardian or guardian ad litem of such
6 minor child appointed by a court, which consent shall be authorized
7 by the court having jurisdiction of such guardian or guardian ad
8 litem.

9 (2) Substitute consent provisions of this section do not
10 apply to a biological father whose consent is not required under
11 section 43-104.22.

12 Sec. 20. Section 43-106, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-106 Consents required to be given under sections
15 43-104 and 43-105, except under subdivision ~~(2)~~ (1)(b) of section
16 43-104, must be acknowledged before an officer authorized to
17 acknowledge deeds in this state and signed in the presence of
18 at least one witness, in addition to the officer. Consents under
19 subdivision ~~(2)~~ (1)(b) of section 43-104 shall be shown by a
20 duly certified copy of order of the court required to grant such
21 consent.

22 Sec. 21. Section 43-906, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-906 Except as otherwise provided in the Nebraska
25 Indian Child Welfare Act, the Department of Health and Human

1 Services, or its duly authorized agent, may consent to the adoption
2 of children committed to it upon the order of a juvenile court if
3 the parental rights of the parents or of the mother of a child born
4 out of wedlock have been terminated and if no father of a child
5 born out of wedlock has timely asserted his paternity rights under
6 section 43-104.02, or upon the relinquishment to such department
7 by their parents or the mother and, if required under sections
8 43-104.08 to 43-104.24 and section 18 of this act, the father of
9 a child born out of wedlock. The parental rights of parents of a
10 child born out of wedlock shall be determined pursuant to sections
11 43-104.05 and 43-104.08 to 43-104.24 and section 18 of this act.

12 Sec. 22. Section 43-1411, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-1411 A civil proceeding to establish the paternity
15 of a child may be instituted, in the court of the district
16 where the child is domiciled or found or, for cases under the
17 Uniform Interstate Family Support Act, where the alleged father is
18 domiciled, by (1) the mother or the alleged father of such child,
19 either during pregnancy or within four years after the child's
20 birth, unless ~~consent or relinquishment~~ has been made pursuant
21 ~~to sections 43-104.08 to 43-104.24 or section 43-105 for purposes~~
22 ~~of adoption~~ (a) a valid consent or relinquishment has been made
23 pursuant to sections 43-104.08 to 43-104.24 and section 18 of this
24 act or section 43-105 for purposes of adoption or (b) a county
25 court or separate juvenile court has jurisdiction over the custody

1 of the child or jurisdiction over an adoption matter with respect
2 to such child pursuant to sections 43-101 to 43-116 or (2) the
3 guardian or next friend of such child or the state, either during
4 pregnancy or within eighteen years after the child's birth. Summons
5 shall issue and be served as in other civil proceedings, except
6 that such summons may be directed to the sheriff of any county in
7 the state and may be served in any county.

8 Sec. 23. Section 71-101, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to
11 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, sections 39
12 and 42 of this act, and the Physical Therapy Practice Act shall be
13 known and may be cited as the Uniform Licensing Law.

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

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

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

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

24 (4) Department means the Department of Health and Human
25 Services Regulation and Licensure;

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

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

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

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

23 (9) Credentialing means the totality of the process
24 associated with obtaining state approval to provide health care
25 services or human services or changing aspects of a current

1 approval. Credentialing grants permission to use a protected
2 title that signifies that a person is qualified to provide the
3 services of a certain profession. Credential includes a license,
4 certificate, or registration; and

5 (10) Dependence means a compulsive or chronic need for
6 or an active addiction to alcohol or any controlled substance or
7 narcotic drug.

8 Sec. 24. Section 71-193.15, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-193.15 A (1) Except as otherwise provided in this
11 section, a licensed dental hygienist shall perform the traditional
12 dental hygiene functions set forth listed in section 71-193.17
13 only when authorized to do so by a licensed dentist who shall be
14 responsible for the total oral health care of the patient.

15 (2) The Department of Health and Human Services
16 Regulation and Licensure in the conduct of public health-related
17 services department may authorize a licensed dental hygienist to
18 conduct preliminary perform the following functions in the conduct
19 of public health-related services in a public health setting or
20 in a health care or related facility: Preliminary charting and
21 screening examinations; , provide oral health education, including
22 workshops and inservice training sessions on dental health; and
23 for patients including the teaching of appropriate plaque control
24 techniques, and perform or provide all of the duties that any
25 dental assistant is authorized to perform.

1 (3) (a) The department may authorize a licensed dental
2 hygienist with three thousand hours of clinical experience in
3 at least four of the preceding five calendar years to perform
4 the following functions in the conduct of public health-related
5 services in a public health setting or in a health care or related
6 facility: Oral prophylaxis to healthy children who do not require
7 antibiotic premedication; pulp vitality testing; and preventive
8 measures, including the application of fluorides, sealants, and
9 other recognized topical agents for the prevention of oral disease.

10 (b) Authorization shall be granted by the department
11 under this subsection upon (i) filing an application with the
12 department, (ii) providing evidence of current licensure and
13 professional liability insurance coverage, and (iii) providing
14 evidence of clinical experience as required under subdivision (a)
15 of this subsection. Authorization may be limited by the department
16 as necessary to protect the public health and safety upon good
17 cause shown and may be renewed in connection with renewal of the
18 dental hygienist's license.

19 (c) A licensed dental hygienist performing dental hygiene
20 functions as authorized under this subsection shall (i) report
21 authorized functions performed by him or her to the department
22 and (ii) advise the patient or recipient of services or his or
23 her authorized representative that such services are preventive in
24 nature and do not constitute a comprehensive dental diagnosis and
25 care.

1 (4) For purposes of this section:

2 (a) Health care or related facility means a hospital,
3 a nursing facility, an assisted-living facility, a correctional
4 facility, a tribal clinic, or a school-based preventive health
5 program; and

6 (b) Public health setting means a federal, state, or
7 local public health department or clinic, community health center,
8 rural health clinic, or other similar program or agency that serves
9 primarily public health care program recipients.

10 Sec. 25. Section 71-193.17, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-193.17 When ~~properly~~ authorized by and under the
13 general supervision of a licensed dentist, a licensed dental
14 hygienist~~,~~ under the general supervision of a licensed dentist,
15 may perform the following intra and extra oral procedures and
16 functions:

17 (1) Oral prophylaxis, periodontal scaling, and root
18 planing which includes supragingival and subgingival debridement;
19 Sealing of teeth, including subgingival regions and root planing
20 with hand and ultrasonic instruments;

21 (2) Polish all exposed tooth surfaces, including
22 with motor-driven and hand instruments in the oral prophylaxis
23 procedure, including polishing amalgam restorations;

24 (3) Conduct and assess preliminary charting, probing,
25 and screening examinations, and indexing of dental and periodontal

1 disease, with referral, when appropriate, for a dental diagnosis by
 2 a licensed dentist;

3 (4) Brush biopsies;

4 (5) Pulp vitality testing;

5 ~~(4) Periodontal probing and charting;~~

6 ~~(5) (6) Gingival curettage;~~

7 ~~(6) Place and remove periodontal dressings;~~

8 (7) ~~Remove~~ Removal of sutures;

9 (8) Provide preventive Preventive measures, such as
 10 including the application of fluorides, sealants, and other
 11 recognized topical agents for the prevention of oral disease;

12 (9) ~~Provide impressions~~ Impressions for study casts;

13 (10) ~~Apply~~ Application of topical desensitizing and
 14 subgingival agents;

15 (11) Provide radiographic Radiographic exposures;

16 (12) Provide oral Oral health education, including
 17 conducting workshops and inservice training sessions on dental
 18 health; for patients including the teaching of appropriate plaque
 19 control techniques; and

20 (13) Application or administration of antimicrobial
 21 rinses, fluorides, and other anticariogenic agents; and

22 ~~(13) Perform or provide all~~ (14) All of the duties that
 23 any dental assistant is authorized to perform.

24 Sec. 26. Section 71-1,147.35, Revised Statutes Cumulative
 25 Supplement, 2006, is amended to read:

1 71-1,147.35 (1)(a) Prior to the dispensing or the
2 delivery of a drug or device pursuant to a medical order
3 to a patient or caregiver, a pharmacist shall in all care
4 settings conduct a prospective drug utilization review. Such
5 prospective drug utilization review shall involve monitoring the
6 patient-specific medical history described in subdivision (b) of
7 this subsection and available to the pharmacist at the practice
8 site for:

- 9 (i) Therapeutic duplication;
10 (ii) Drug-disease contraindications;
11 (iii) Drug-drug interactions;
12 (iv) Incorrect drug dosage or duration of drug treatment;
13 (v) Drug-allergy interactions; and
14 (vi) Clinical abuse or misuse.

15 (b) A pharmacist conducting a prospective drug
16 utilization review shall ensure that a reasonable effort is made
17 to obtain from the patient, his or her caregiver, or his or her
18 practitioner and to record and maintain records of the following
19 information to facilitate such review:

20 (i) The name, address, telephone number, date of birth,
21 and gender of the patient;

22 (ii) The patient's history of significant disease, known
23 allergies, and drug reactions and a comprehensive list of relevant
24 drugs and devices used by the patient; and

25 (iii) Any comments of the pharmacist relevant to the

1 patient's drug therapy.

2 (c) The assessment of data on drug use in any prospective
3 drug utilization review shall be based on predetermined standards,
4 approved by the department upon the recommendation of the board.

5 (2) (a) Prior to the dispensing or delivery of a drug or
6 device pursuant to a prescription, the pharmacist shall ensure that
7 a verbal offer to counsel the patient or caregiver is made. The
8 counseling of the patient or caregiver by the pharmacist shall be
9 on elements which, in the exercise of the pharmacist's professional
10 judgment, the pharmacist deems significant for the patient. Such
11 elements may include, but need not be limited to, the following:

12 (i) The name and description of the prescribed drug or
13 device;

14 (ii) The route of administration, dosage form, dose, and
15 duration of therapy;

16 (iii) Special directions and precautions for preparation,
17 administration, and use by the patient or caregiver;

18 (iv) Common side effects, adverse effects or
19 interactions, and therapeutic contraindications that may be
20 encountered, including avoidance, and the action required if such
21 effects, interactions, or contraindications occur;

22 (v) Techniques for self-monitoring drug therapy;

23 (vi) Proper storage;

24 (vii) Prescription refill information; and

25 (viii) Action to be taken in the event of a missed dose.

1 (b) The patient counseling provided for in this
2 subsection shall be provided in person whenever practical or by the
3 utilization of telephone service which is available at no cost to
4 the patient or caregiver.

5 (c) Patient counseling shall be appropriate to the
6 individual patient and shall be provided to the patient or
7 caregiver.

8 (d) Written information may be provided to the patient
9 or caregiver to supplement the patient counseling provided for in
10 this subsection but shall not be used as a substitute for such
11 patient counseling. ~~If written information is provided, it shall~~
12 ~~also include all information found on the prescription label.~~

13 (e) This subsection shall not be construed to require a
14 pharmacist to provide patient counseling when:

15 (i) The patient or caregiver refuses patient counseling;

16 (ii) The pharmacist, in his or her professional judgment,
17 determines that patient counseling may be detrimental to the
18 patient's care or to the relationship between the patient and his
19 or her practitioner;

20 (iii) The patient is a patient or resident of a health
21 care facility or health care service licensed under the Health Care
22 Facility Licensure Act to whom prescription drugs or devices are
23 administered by a licensed or certified staff member or consultant
24 or a certified physician's assistant; or

25 (iv) The practitioner authorized to prescribe drugs or

1 devices specifies that there shall be no patient counseling unless
2 he or she is contacted prior to such patient counseling. The
3 prescribing practitioner shall specify such prohibition in an oral
4 prescription or in writing on the face of a written prescription,
5 including any prescription which is received by facsimile or
6 electronic transmission. The pharmacist shall note "Contact Before
7 Counseling" on the face of the prescription if such is communicated
8 orally by the prescribing practitioner.

9 Sec. 27. Section 71-1,186, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1,186 For purposes of As used in sections 71-1,186 to
12 71-1,196 and elsewhere in the Uniform Licensing Law, unless the
13 context otherwise requires:

14 (1) Board ~~shall mean~~ means the Board of Audiology and
15 Speech-Language Pathology;

16 (2) Practice of audiology ~~shall mean~~ means the
17 application of principles, methods, and procedures for testing,
18 measuring, and monitoring hearing, preparation of ear impressions
19 and selection of hearing aids, aural rehabilitation, hearing
20 conservation, vestibular testing of patients when vestibular
21 testing is done as a result of a referral by a physician, and
22 instruction related to hearing and disorders of hearing for the
23 purpose of preventing, identifying, evaluating, and minimizing
24 the effects of such disorders and conditions but shall not
25 include the practice of medical diagnosis, medical treatment,

1 ~~or surgery,~~ evidence-based practice in clinical decisionmaking
2 for the prevention, assessment, habilitation, rehabilitation,
3 and maintenance of persons with hearing, auditory function, and
4 vestibular function impairments and related impairments, including
5 (a) cerumen removal from the cartilaginous outer one-third portion
6 of the external auditory canal when the presence of cerumen may
7 affect the accuracy of hearing evaluations or impressions of the
8 ear canal for amplification devices and (b) evaluation, selection,
9 fitting, and dispensing of hearing aids, external processors of
10 implantable hearing aids, and assistive technology devices as part
11 of a comprehensive audiological rehabilitation program. Practice
12 of audiology does not include the practice of medical diagnosis,
13 medical treatment, or surgery;

14 (3) Audiologist ~~shall mean~~ means an individual who
15 practices audiology and who presents himself or herself to the
16 public by any title or description of services incorporating the
17 words audiologist, hearing clinician, hearing therapist, or any
18 similar title or description of services;

19 (4) Practice of speech-language pathology ~~shall mean~~
20 means the application of principles, ~~and methods,~~ and ~~procedures~~
21 ~~for the evaluation, monitoring, instruction, habilitation, or~~
22 ~~rehabilitation related to~~ associated with the development and
23 disorders of human communication skills and with dysphagia,
24 which principles and methods include screening, assessment,
25 evaluation, treatment, prevention, consultation, and restorative

1 modalities for speech, voice, ~~or~~ language, language-based learning,
 2 hearing, swallowing, or other upper aerodigestive functions
 3 for the purpose of improving quality of life by reducing
 4 impairments of body functions and structures, activity limitations,
 5 participation restrictions, and environmental barriers. Practice
 6 of speech-language pathology does not include the practice of
 7 medical diagnosis, medical treatment, or surgery; ~~for the purpose~~
 8 of preventing, identifying, evaluating, and minimizing the effects
 9 of such disorders and conditions but shall not include the practice
 10 of medical diagnosis, medical treatment, or surgery;

11 (5) Speech-language pathologist shall mean means an
 12 individual who presents himself or herself to the public
 13 by any title or description of services incorporating the
 14 words speech-language pathologist, speech therapist, speech
 15 correctionist, speech clinician, language pathologist, language
 16 therapist, language clinician, logopedist, communicologist,
 17 aphasiologist, aphasia therapist, voice pathologist, voice
 18 therapist, voice clinician, phoniatriest, or any similar title,
 19 term, or description of services; and

20 (6) ~~Communication assistant~~ shall mean Audiology or
 21 speech-language pathology assistant or any individual who presents
 22 himself or herself to the public by any title or description
 23 with the same duties means any person who, following specified
 24 training and receiving specified supervision, provides specified
 25 limited structured communication or swallowing services, which are

1 developed and supervised by a licensed audiologist or licensed
2 speech-language pathologist, in the areas in which the supervisor
3 holds licenses; and -

4 (7) Dysphagia means disorders of swallowing.

5 Sec. 28. Section 71-1,187, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-1,187 Nothing in the Uniform Licensing Law shall be
8 construed to prevent or restrict:

9 (1) The practice of audiology or speech-language
10 pathology or the use of the official title of such practice by a
11 person employed as a speech-language pathologist or audiologist by
12 the federal government;

13 (2) A physician from engaging in the practice of medicine
14 and surgery or any individual from carrying out any properly
15 delegated responsibilities within the normal practice of medicine
16 and surgery under the supervision of a physician;

17 (3) A person licensed as a hearing aid fitter and dealer
18 in this state from engaging in the fitting, selling, and servicing
19 of hearing aids or performing such other duties as defined in
20 sections 71-4701 to 71-4719;

21 (4) The practice of audiology or speech-language
22 pathology or the use of the official title of such practice by
23 a person who holds a valid and current credential as a ~~speech~~
24 ~~or hearing specialist~~ speech-language pathologist or audiologist
25 issued by the State Department of Education, if such person

1 performs speech-language pathology or audiology services solely
 2 as a part of his or her duties within an agency, institution, or
 3 organization for which no fee is paid directly or indirectly by the
 4 recipient of such service and under the jurisdiction of the State
 5 Department of Education, but such person may elect to be within the
 6 jurisdiction of sections 71-1,186 to 71-1,196; ~~ex~~

7 (5) The clinical practice in audiology or speech-language
 8 pathology required for students enrolled in an accredited college
 9 or university pursuing a major in audiology or speech-language
 10 pathology, if such clinical practices are supervised by a person
 11 licensed to practice audiology or speech-language pathology and
 12 if the student is designated by a title such as ~~trainee~~ student
 13 clinician or other title clearly indicating the training status; or
 14 -

15 (6) The utilization of a speech aide or other personnel
 16 employed by a public school, educational service unit, or other
 17 private or public educational institution working under the direct
 18 supervision of a credentialed speech-language pathologist.

19 Sec. 29. Section 71-1,195.01, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 71-1,195.01 (1) Upon application and payment of the
 22 registration fee, the department shall register to practice as a
 23 ~~communication assistant~~ an audiology or speech-language pathology
 24 assistant any person who:

25 (a)(i) Holds a bachelor's degree or its equivalent in

1 communication disorders, (ii) holds an associate degree or its
2 equivalent in communication disorders from an accredited training
3 program, or (iii) between the period of June 1, 2005, and June 1,
4 2007, was registered as and practiced as a communication assistant
5 for at least thirty hours per week for a minimum of nine months
6 per year; ~~(a) Is a graduate of an accredited high school or its~~
7 ~~equivalent;~~

8 (b) Has successfully completed all required training
9 pursuant to sections 71-1,195.04 and 71-1,195.05 and any inservice
10 training required pursuant to section 71-1,195.09; and

11 (c) Has demonstrated ability to reliably maintain
12 records and provide treatment under the supervision of a licensed
13 audiologist or speech-language pathologist.

14 (2) Such registration shall be valid for one year from
15 the date of issuance.

16 (3) The board shall, with the approval of the department,
17 adopt and promulgate rules and regulations necessary to administer
18 sections 71-1,195.01 to 71-1,195.09.

19 Sec. 30. Section 71-1,195.02, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-1,195.02 (1) The department, upon recommendation of
22 the board, shall approve an application submitted by an audiologist
23 or speech-language pathologist for supervision ~~for a communication~~
24 ~~assistant~~ of an audiology or speech-language pathology assistant
25 when:

1 (a) The ~~communication~~ assistant audiology or
2 speech-language pathology assistant meets the requirements
3 for registration pursuant to section 71-1,195.01;

4 (b) The audiologist or speech-language pathologist has a
5 valid Nebraska license; and

6 (c) The audiologist or speech-language pathologist
7 practices in Nebraska.

8 (2) Any audiologist or speech-language pathologist
9 seeking approval for supervision of a ~~communication~~ assistant
10 an audiology or speech-language pathology assistant shall
11 submit an application which is signed by the ~~communication~~
12 ~~assistant~~ audiology or speech-language pathology assistant and the
13 audiologist or speech-language pathologist with whom he or she is
14 associated. Such application shall (a) identify the settings within
15 which the ~~communication~~ assistant audiology or speech-language
16 pathology assistant is authorized to practice, and (b) describe the
17 agreed-upon functions that the ~~communication~~ assistant audiology
18 or speech-language pathology assistant may perform as provided in
19 section 71-1,195.06, and (c) describe the provision for supervision
20 by an alternate audiologist or speech-language pathologist when
21 necessary.

22 (3) If the supervision of a ~~communication~~ assistant an
23 audiology or speech-language pathology assistant is terminated
24 by the audiologist, speech-language pathologist, or ~~communication~~
25 ~~assistant,~~ audiology or speech-language pathology assistant,

1 the audiologist or speech-language pathologist shall notify the
2 department of such termination. An audiologist or speech-language
3 pathologist who thereafter assumes the responsibility for such
4 supervision shall obtain a certificate of approval to supervise a
5 ~~communication assistant~~ an audiology or speech-language pathology
6 assistant from the department prior to the use of the ~~communication~~
7 ~~assistant~~ audiology or speech-language pathology assistant in the
8 practice of audiology or speech-language pathology.

9 Sec. 31. Section 71-1,195.03, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1,195.03 The department may deny, suspend, limit,
12 revoke, or otherwise discipline the registration of a ~~communication~~
13 ~~assistant~~ an audiology or speech-language pathology assistant
14 or the approval of a supervising audiologist or speech-language
15 pathologist granted under sections 71-1,195.01 and 71-1,195.02 upon
16 the grounds and in accordance with the Uniform Licensing Law for
17 any violation of sections 71-1,195.01 to 71-1,195.09.

18 Sec. 32. Section 71-1,195.04, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-1,195.04 Initial training for ~~communication assistant~~
21 an audiology or speech-language pathology assistant shall consist
22 of ~~at least twelve hours and~~ graduation from an accredited program
23 with a focus on communication disorders which shall include:

24 (1) An overview of speech, and language, and dysphagia
25 and the practice of audiology and speech-language pathology;

- 1 (2) Ethical and legal responsibilities;
- 2 (3) Normal language, speech, and hearing functions and
- 3 swallowing physiology;
- 4 (4) Observing and recording patient progress;
- 5 (5) Behavior management and modification; and
- 6 (6) Record keeping.

7 Sec. 33. Section 71-1,195.05, Reissue Revised Statutes of

8 Nebraska, is amended to read:

9 71-1,195.05 In addition to the initial training required

10 by section 71-1,195.04, ~~any communication assistant~~ an audiology

11 or speech-language pathology assistant assigned to provide aural

12 rehabilitation programs shall have additional training which shall

13 include, but not be limited to:

- 14 (1) Information concerning the nature of hearing loss;
- 15 (2) Purposes and principles of auditory and visual
- 16 training;
- 17 (3) Maintenance and use of amplification devices; and
- 18 (4) Such other subjects as the department may deem
- 19 appropriate.

20 Sec. 34. Section 71-1,195.06, Reissue Revised Statutes of

21 Nebraska, is amended to read:

22 71-1,195.06 ~~A communication assistant~~ An audiology or

23 speech-language pathology assistant may, under the supervision of

24 a licensed audiologist or speech-language pathologist, perform the

25 following duties and activities:

1 (1) Implement programs and procedures designed by
2 a licensed audiologist or speech-language pathologist; ~~which~~
3 ~~develop or refine receptive and expressive verbal and nonverbal~~
4 ~~communication skills;~~

5 (2) Maintain records of implemented procedures which
6 document a patient's responses to treatment;

7 (3) Provide input for interdisciplinary treatment
8 planning, inservice training, and other activities directed by a
9 licensed audiologist or speech-language pathologist;

10 (4) Prepare instructional material to facilitate
11 program implementation as directed by a licensed audiologist or
12 speech-language pathologist;

13 (5) ~~Recommend speech, language, and hearing referrals~~
14 ~~for evaluation by a licensed audiologist or speech-language~~
15 ~~pathologist;~~ (6) Follow plans, developed by the licensed audiologist
16 or speech-language pathologist, that provide specific sequences of
17 treatment to individuals with communicative disorders or dysphagia;
18 and

19 ~~(7)~~ (6) Chart or log patient responses to the treatment
20 plan.

21 Sec. 35. Section 71-1,195.07, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-1,195.07 A ~~communication assistant~~ An audiology or
24 speech-language pathology assistant shall not:

25 (1) Evaluate or diagnose any type of communication

1 disorder;

2 (2) Evaluate or diagnose any type of dysphagia;

3 (3) Interpret evaluation results or treatment progress;

4 ~~(3)~~ (4) Consult or counsel, independent of the licensed
 5 audiologist or speech-language pathologist, with a patient, a
 6 patient's family, or staff regarding the nature or degree of
 7 communication disorders or dysphagia;

8 ~~(4)~~ (5) Plan patient treatment programs;

9 ~~(5)~~ (6) Represent himself or herself as an audiologist or
 10 speech-language pathologist or as a provider of speech, language,
 11 swallowing, or hearing treatment or assessment services; or

12 ~~(6)~~ (7) Independently initiate, modify, or terminate any
 13 treatment program; or -

14 (8) Fit or dispense hearing aids.

15 Sec. 36. Section 71-1,195.08, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 71-1,195.08 (1) When supervising ~~the communication~~
 18 ~~assistant,~~ an audiology or speech-language pathology assistant, the
 19 supervising audiologist or speech-language pathologist shall:

20 (a) Provide supervision for no more than two audiology or
 21 speech-language pathology assistants at one time;

22 (b) Provide direct onsite supervision for the first
 23 ~~treatment session,~~ two treatment sessions of each patient's care;

24 ~~(b)~~ (c) Provide direct onsite supervision of at least
 25 twenty percent of all subsequent treatment sessions per quarter;

1 ~~(e)~~ (d) Provide ~~regular and frequent inservice training,~~
2 at least ten hours of inservice training per registration period,
3 either formal or informal, which is directly related to the
4 particular services provided by the ~~communication assistant,~~
5 audiology or speech-language pathology assistant; and

6 ~~(d)~~ (e) Prepare semiannual performance evaluations of
7 the ~~communication assistant,~~ audiology or speech-language pathology
8 assistant to be reviewed with the audiology or speech-language
9 pathology assistant on a one-to-one basis.

10 (2) The supervising audiologist or speech-language
11 pathologist shall be responsible for all aspects of patient
12 treatment.

13 Sec. 37. Section 71-1,195.09, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-1,195.09 The supervising audiologist or
16 speech-language pathologist shall provide the ~~communication~~
17 ~~assistant with an evaluation, supervision, and training, including~~
18 ~~at least ten hours each year of inservice training in areas related~~
19 ~~to the services provided by the communication assistant pursuant~~
20 ~~to section 71-1,195.08. Such training shall be verified by annual~~
21 ~~reports to the department verifying that evaluation, supervision,~~
22 and training required by section 71-1,195.08 has been completed.

23 The audiologist or speech-language pathologist shall keep accurate
24 records of such evaluation, supervision, and training.

25 Sec. 38. Section 71-1,296, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-1,296 For purposes of sections 71-1,295 to 71-1,338
3 and sections 39 and 42 of this act, the definitions found in
4 sections 71-1,297 to 71-1,311 and section 39 of this act shall be
5 used.

6 Sec. 39. (1) Independent mental health practice means the
7 provision of treatment, assessment, psychotherapy, counseling, or
8 equivalent activities to individuals, couples, families, or groups
9 for behavioral, cognitive, social, mental, or emotional disorders,
10 including interpersonal or personal situations.

11 (2) Independent mental health practice includes
12 diagnosing major mental illness or disorder, using psychotherapy
13 with individuals suspected of having major mental or emotional
14 disorders, or using psychotherapy to treat the concomitants of
15 organic illness, with or without consultation with a qualified
16 physician or licensed psychologist.

17 (3) Independent mental health practice does not include
18 the practice of psychology or medicine, prescribing drugs or
19 electroconvulsive therapy, treating physical disease, injury, or
20 deformity, or measuring personality or intelligence for the purpose
21 of diagnosis or treatment planning.

22 Sec. 40. Section 71-1,307, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-1,307 (1) Mental health practice shall mean means the
25 provision of treatment, assessment, psychotherapy, counseling, or

1 equivalent activities to individuals, couples, families, or groups
2 for behavioral, cognitive, social, mental, or emotional disorders,
3 including interpersonal or personal situations.

4 (2) Mental health practice shall does not include:

5 (a) The the practice of psychology or medicine;

6 (b) Prescribing ~~prescribing~~ drugs or electroconvulsive
7 therapy;

8 (c) Treating ~~treating~~ physical disease, injury, or
9 deformity;

10 (d) Diagnosing ~~diagnosing~~ major mental illness or
11 disorder except in consultation with a qualified physician or a
12 psychologist licensed to engage in the practice of psychology as
13 provided in section 71-1,206.14;

14 (e) Measuring ~~measuring~~ personality or intelligence for
15 the purpose of diagnosis or treatment planning;

16 (f) Using ~~using~~ psychotherapy with individuals
17 suspected of having major mental or emotional disorders except in
18 consultation with a qualified physician or licensed psychologist;

19 or

20 (g) Using ~~or using~~ psychotherapy to treat the
21 concomitants of organic illness except in consultation with a
22 qualified physician or licensed psychologist.

23 (3) Mental health practice shall include includes the
24 initial assessment of organic mental or emotional disorders for the
25 purpose of referral or consultation.

1 (4) Nothing in sections 71-1,306, 71-1,310, and 71-1,311
2 shall be deemed to constitute authorization to engage in activities
3 beyond those described in this section. Persons certified under
4 sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act
5 but not licensed under section 71-1,314 shall not engage in mental
6 health practice.

7 Sec. 41. Section 71-1,308, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-1,308 (1) Mental health practitioner ~~shall mean~~ means
10 a person who holds himself or herself out as a person qualified
11 to engage in mental health practice or a person who offers or
12 renders mental health practice services. Independent mental health
13 practitioner means a person who holds himself or herself out as a
14 person qualified to engage in independent mental health practice or
15 a person who offers or renders independent mental health practice
16 services.

17 (2) A person who is licensed as a mental health
18 practitioner or an independent mental health practitioner and
19 certified as a master social worker may use the title licensed
20 clinical social worker. A person who is licensed as a mental health
21 practitioner or an independent mental health practitioner and
22 certified as a professional counselor may use the title licensed
23 professional counselor. A person who is licensed as a mental
24 health practitioner or an independent mental health practitioner
25 and certified as a marriage and family therapist may use the

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

6 (3) A mental health practitioner shall not represent
7 himself or herself as a physician or psychologist and shall not
8 represent his or her services as being medical or psychological
9 in nature. An independent mental health practitioner shall not
10 represent himself or herself as a physician or psychologist.

11 Sec. 42. (1) No person shall hold himself or herself out
12 as an independent mental health practitioner unless he or she is
13 licensed as such by the department. A person shall be qualified to
14 be a licensed independent mental health practitioner if he or she:

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

24 (ii) Is licensed as a provisional mental health
25 practitioner or a licensed mental health practitioner; and

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

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

9 (ii) Is licensed as a provisional mental health
10 practitioner or a mental health practitioner; and

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

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

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

25 Sec. 43. Section 71-1,315, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-1,315 Each licensed mental health practitioner and
3 each licensed independent mental health practitioner shall, in
4 the period since his or her license was issued or last renewed,
5 complete continuing competency activities as required by the board
6 pursuant to section 71-161.09 as a prerequisite for the licensee's
7 next subsequent license renewal.

8 Sec. 44. Section 71-1,316, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1,316 The department, upon the advice of the board,
11 shall adopt and promulgate rules and regulations to administer
12 sections 71-1,312 to 71-1,315 and section 42 of this act, including
13 rules and regulations governing:

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

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

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

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

25 (5) Approval of examinations and educational programs.

1 Sec. 45. Section 71-1,333, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1,333 (1) The department shall issue a certificate,
4 signed by the director, to each person who is qualified to be a
5 certified master social worker, certified social worker, certified
6 professional counselor, or certified marriage and family therapist.

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

11 Sec. 46. Section 71-1,335, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-1,335 No person licensed or certified pursuant to
14 sections 71-1,295 to 71-1,338 and sections 39 and 42 of this act
15 shall disclose any information he or she may have acquired from any
16 person consulting him or her in his or her professional capacity
17 except:

18 (1) With the written consent of the person or, in
19 the case of death or disability, of the person's personal
20 representative, any other person authorized to sue on behalf
21 of the person, or the beneficiary of an insurance policy on the
22 person's life, health, or physical condition. When more than one
23 person in a family receives therapy conjointly, each such family
24 member who is legally competent to execute a waiver shall agree to
25 the waiver referred to in this subdivision. Without such a waiver

1 from each family member legally competent to execute a waiver,
2 a practitioner shall not disclose information received from any
3 family member who received therapy conjointly;

4 (2) As such privilege is limited by the laws of the State
5 of Nebraska or as the ~~Board of Mental Health Practice~~ board may
6 determine by rule and regulation;

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

9 (4) When there is a duty to warn under the limited
10 circumstances set forth in section 71-1,336.

11 Sec. 47. Section 71-1,336, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-1,336 (1) There shall be no monetary liability on the
14 part of, and no cause of action shall arise against, any person who
15 is licensed or certified pursuant to sections 71-1,295 to 71-1,338
16 and sections 39 and 42 of this act for failing to warn of and
17 protect from a patient's threatened violent behavior or failing to
18 predict and warn of and protect from a patient's violent behavior
19 except when the patient has communicated to the mental health
20 practitioner a serious threat of physical violence against himself,
21 herself, or a reasonably identifiable victim or victims.

22 (2) The duty to warn of or to take reasonable precautions
23 to provide protection from violent behavior shall arise only
24 under the limited circumstances specified in subsection (1) of
25 this section. The duty shall be discharged by the mental health

1 practitioner if reasonable efforts are made to communicate the
2 threat to the victim or victims and to a law enforcement agency.

3 (3) No monetary liability and no cause of action shall
4 arise under section 71-1,335 against a licensee or certificate
5 holder for information disclosed to third parties in an effort
6 to discharge a duty arising under subsection (1) of this section
7 according to the provisions of subsection (2) of this section.

8 Sec. 48. Section 71-1,337, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1,337 The Board of Mental Health Practice shall adopt
11 a code of ethics which is essentially in agreement with the current
12 code of ethics of the national and state associations of the
13 specialty professions included in mental health practice and which
14 the board deems necessary to assure adequate protection of the
15 public in the provision of mental health services to the public.
16 A violation of the code of ethics shall be considered an act of
17 unprofessional conduct.

18 The board shall ensure through the code of ethics and
19 the rules and regulations adopted and promulgated under sections
20 71-1,295 to 71-1,338 and sections 39 and 42 of this act that
21 persons licensed or certified pursuant to sections 71-1,295 to
22 71-1,338 and sections 39 and 42 of this act limit their practice
23 to demonstrated areas of competence as documented by relevant
24 professional education, training, and experience.

25 Intentional failure by a mental health practitioner to

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

8 Sec. 49. Section 71-1,338, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1,338 Any person who violates any provision of the
11 Uniform Licensing Law related to mental health practice shall be
12 guilty of a Class III misdemeanor, and any such violation by
13 a person licensed or certified pursuant to sections 71-1,295 to
14 71-1,338 and sections 39 and 42 of this act shall be cause for
15 disciplinary action as provided in sections 71-147 to 71-161.18.

16 Sec. 50. Section 71-1913.01, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-1913.01 (1) Each program shall require the parent
19 or guardian of each child enrolled in such program to present
20 within thirty days after enrollment and periodically thereafter (a)
21 proof that the child is protected by age-appropriate immunization
22 against measles, mumps, rubella, poliomyelitis, diphtheria,
23 pertussis, tetanus, and haemophilus influenzae type B, and invasive
24 pneumococcal disease and such other diseases as the Department
25 of Health and Human Services Regulation and Licensure may from

1 time to time specify based on then current medical and scientific
2 knowledge, (b) certification by a physician, an advanced practice
3 registered nurse practicing under and in accordance with his or
4 her respective certification act, or a physician assistant that
5 immunization is not appropriate for a stated medical reason, or
6 (c) a written statement that the parent or guardian does not wish
7 to have such child so immunized and the reasons therefor. The
8 program shall exclude a child from attendance until such proof,
9 certification, or written statement is provided. At the time the
10 parent or guardian is notified that such information is required,
11 he or she shall be notified in writing of his or her right to
12 submit a certification or written statement pursuant to subdivision
13 (b) or (c) of this subsection.

14 (2) Each program shall keep the written record of
15 immunization, the certification, or the written statement of the
16 parent or guardian. Such record, certification, or statement shall
17 be kept by the program as part of the child's file, shall be
18 available onsite to the Department of Health and Human Services
19 and the Department of Health and Human Services Regulation and
20 Licensure, and shall be filed with the Department of Health and
21 Human Services for review and inspection. Each program shall report
22 to the Department of Health and Human Services by November 1
23 of each year the status of immunization for children enrolled
24 as of September 30 of that year, and children who have reached
25 kindergarten age and who are enrolled in public or private school

1 need not be included in the report.

2 Sec. 51. Section 71-2421, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-2421 (1) To protect the public safety, dispensed drugs
5 or devices may be returned to the dispensing pharmacy only under
6 the following conditions:

7 (a) For immediate destruction by a pharmacist, except
8 that drugs and devices dispensed to residents of a long-term care
9 facility shall be destroyed on the site of the long-term care
10 facility;

11 (b) In response to a recall by the manufacturer,
12 packager, or distributor;

13 (c) If a device is defective or malfunctioning; or

14 (d) Return from a long-term care facility for credit,
15 except that:

16 (i) No controlled substance may be returned;

17 (ii) The decision to accept the return of the dispensed
18 drug or device shall rest solely with the pharmacist;

19 (iii) The dispensed drug or device shall have been in the
20 control of the long-term care facility at all times;

21 (iv) The dispensed drug or device shall be in the
22 original and unopened labeled container with a tamper-evident seal
23 intact, as dispensed by the pharmacy. Such container shall bear the
24 expiration date or calculated expiration date and lot number; and

25 (v) Tablets or capsules shall have been dispensed in a

1 unit dose with a tamper-evident container which is impermeable to
2 moisture and approved by the Board of Pharmacy.

3 (2) Returned dispensed drugs or devices shall not be
4 retained in inventory nor made available for subsequent dispensing,
5 except as provided in subdivision (1)(d) of this section.

6 (3) For purposes of this section:

7 (a) Calculated expiration date means an expiration date
8 on the prepackaged product which is not greater than twenty-five
9 percent of the time between the date of repackaging and the
10 expiration date of the bulk container nor greater than six months
11 from the date of repackaging; and

12 (b) Dispense, drugs, and devices are defined in section
13 71-1,142; and -

14 (c) Long-term care facility does not include an
15 assisted-living facility as defined in section 71-406.

16 Sec. 52. Section 71-4702, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-4702 (1) No person shall engage in the sale of or
19 practice of fitting hearing aids or display a sign or in any
20 other way advertise or represent himself or herself as a person
21 who practices the fitting and sale or dispensing of hearing aids
22 unless he or she holds an unsuspended, unrevoked license issued
23 by the department as provided in sections 71-4701 to 71-4719. The
24 license shall be conspicuously posted in his or her office or place
25 of business. A license shall confer upon the holder the right to

1 select, fit, and sell hearing aids.

2 (2) A licensed audiologist who maintains a practice
3 pursuant to licensure as an audiologist in which hearing aids are
4 regularly dispensed or who intends to maintain such a practice
5 shall also be licensed pursuant to subsection (4) of section
6 71-4707.

7 ~~(2)~~ (3) Nothing in ~~such~~ sections 71-4701 to 71-4719 shall
8 prohibit a corporation, partnership, limited liability company,
9 trust, association, or other like organization maintaining an
10 established business address from engaging in the business of
11 selling or offering for sale hearing aids at retail without a
12 license if it employs only properly licensed natural persons in
13 the direct sale and fitting of such products. Such corporation,
14 partnership, limited liability company, trust, association, or like
15 organization shall file annually with the board a list of all
16 licensed hearing aid instrument dispensers and fitters directly or
17 indirectly employed by it. Such corporation, partnership, limited
18 liability company, trust, association, or like organization shall
19 also file with the board a statement on a form approved by the
20 board that it submits itself to the rules and regulations of the
21 department and the provisions of such sections which the department
22 deems applicable.

23 ~~(3)~~ (4) Nothing in such sections shall prohibit the
24 holder of a license from the fitting and sale of wearable
25 instruments or devices designed for or offered for the purpose

1 of conservation or protection of hearing.

2 Sec. 53. Section 71-4707, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-4707 (1) Any person may obtain a license by
5 successfully passing a qualifying examination if the applicant:

6 (a) Is at least twenty-one years of age;

7 (b) Is of good moral character;

8 (c) Has an education equivalent to a four-year course in
9 an accredited high school; and

10 (d) Is free of contagious or infectious disease.

11 (2) Each applicant for license by examination shall
12 appear at a time and place and before such persons as the
13 department may designate to be examined by means of written and
14 practical tests in order to demonstrate that he or she is qualified
15 to practice the fitting and sale of hearing aids. The examination
16 shall not be conducted in such a manner that college training is
17 required in order to pass. Nothing in this examination shall imply
18 that the applicant is required to possess the degree of medical
19 competence normally expected of physicians.

20 (3) The department shall give examinations as determined
21 by the board, except that a minimum of two examinations shall be
22 offered each calendar year.

23 (4) The department shall issue a license without
24 examination to a licensed audiologist who maintains a practice
25 pursuant to licensure as an audiologist in which hearing aids are

1 regularly dispensed or who intends to maintain such a practice upon
2 application to the department, proof of licensure, and payment of a
3 twenty-five-dollar fee.

4 Sec. 54. Section 71-5403, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-5403 (1) A pharmacist may drug product select except
7 when:

8 (a) A practitioner designates that drug product selection
9 is not permitted by specifying on the face of the prescription
10 or by telephonic, facsimile, or electronic transmission that there
11 shall be no drug product selection. For written prescriptions, the
12 practitioner shall specify in his or her own handwriting on the
13 prescription the phrase "no drug product selection", "dispense as
14 written", "brand medically necessary", or "no generic substitution"
15 or the notation "N.D.P.S.", "D.A.W.", or "B.M.N." or words or
16 notations of similar import to indicate that drug product selection
17 is not permitted. The pharmacist shall note "N.D.P.S.", "D.A.W.",
18 "B.M.N.", "no drug product selection", "dispense as written",
19 "brand medically necessary", "no generic substitution", or words or
20 notations of similar import ~~or "No Drug Product Selection"~~ on the
21 face of the prescription to indicate that drug product selection
22 is not permitted if such is communicated orally by the prescribing
23 practitioner; or

24 (b) A patient or designated representative or caregiver
25 of such patient instructs otherwise.

1 (2) A pharmacist shall not drug product select a drug
2 product unless:

3 (a) The drug product, if it is in solid dosage form, has
4 been marked with an identification code or monogram directly on the
5 dosage unit;

6 (b) The drug product has been labeled with an expiration
7 date;

8 (c) The manufacturer, distributor, or packager of the
9 drug product provides reasonable services, as determined by the
10 board, to accept the return of drug products that have reached
11 their expiration date; and

12 (d) The manufacturer, distributor, or packager maintains
13 procedures for the recall of unsafe or defective drug products.

14 Sec. 55. Section 71-7438, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-7438 Manufacturer means any entity engaged in
17 manufacturing, preparing, propagating, ~~compounding~~, processing,
18 packaging, repackaging, or labeling a prescription drug.

19 Sec. 56. Section 71-8402, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-8402 For purposes of sections 71-8401 to 71-8407:

22 (1) Medical records means a provider's record of a
23 patient's health history and treatment rendered;

24 (2) Mental health medical records means medical records
25 or parts thereof created by or under the direction or supervision

1 of a licensed psychiatrist, a licensed psychologist, or a mental
2 health practitioner licensed or certified pursuant to sections
3 71-1,295 to 71-1,338 and sections 39 and 42 of this act;

4 (3) Patient includes a patient or former patient;

5 (4) Patient request or request of a patient includes the
6 request of a patient's guardian or other authorized representative;
7 and

8 (5) Provider means a physician, psychologist,
9 chiropractor, dentist, hospital, clinic, and any other licensed or
10 certified health care practitioner or entity.

11 Sec. 57. Section 81-651, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-651 (1) The Department of Health and Human Services
14 may provide visiting community nursing services or home health
15 services to persons living in the state and may charge fees for
16 such services. The department shall not be exempt from licensure as
17 a home health agency under the Health Care Facility Licensure Act.

18 (2) The department may organize, license, and operate
19 home health agencies to assist in providing services under
20 subsection (1) of this section.

21 (3) The department (a) may employ necessary
22 personnel, including, but not limited to, licensed nurses,
23 physical therapists, physical therapy assistants, audiologists,
24 speech-language pathologists, ~~communication assistants,~~ audiology
25 or speech-language pathology assistants, occupational therapists,

1 occupational therapy assistants, home health aides, homemakers,
2 respiratory care practitioners, nutritionists, social workers, and
3 supervisory personnel, and may purchase equipment and materials
4 necessary to maintain an effective program or (b) may contract with
5 individuals or licensed agencies to obtain such services or to
6 assist in providing services under subsection (1) of this section.

7 (4) The department may contract with any public, private,
8 for-profit, or nonprofit agency or individual to provide home
9 health services through any licensed home health agency created
10 under subsection (2) of this section.

11 Sec. 58. Section 71-101, Revised Statutes Cumulative
12 Supplement, 2006, as amended by section 296, Legislative Bill
13 296, One Hundredth Legislature, First Session, 2007, section 1,
14 Legislative Bill 463, One Hundredth Legislature, First Session,
15 2007, section 1, Legislative Bill 236, One Hundredth Legislature,
16 First Session, 2007, section 1, Legislative Bill 481, One Hundredth
17 Legislature, First Session, 2007, and section 23, Legislative Bill
18 247, One Hundredth Legislature, First Session, 2007, is amended to
19 read:

20 ~~71-101~~ Sections 1 to 139 of this act, ~~section 4 of this~~
21 ~~act, sections 39 and 42 of this act, sections 31 to 38 of this act,~~
22 ~~the Perfusion Practice Act,~~ and the following practice acts shall
23 be known and may be cited as the Uniform Credentialing Act:

24 (1) The Advanced Practice Registered Nurse Practice Act;

25 (2) The Alcohol and Drug Counseling Practice Act;

- 1 (3) The Athletic Training Practice Act;
- 2 (4) The Audiology and Speech-Language Pathology Practice
- 3 Act;
- 4 (5) The Certified Nurse Midwifery Practice Act;
- 5 (6) The Certified Registered Nurse Anesthetist Practice
- 6 Act;
- 7 (7) The Chiropractic Practice Act;
- 8 (8) The Clinical Nurse Specialist Practice Act;
- 9 (9) The Cosmetology, Electrology, Esthetics, Nail
- 10 Technology, and Body Art Practice Act;
- 11 (10) The Dentistry Practice Act;
- 12 (11) The Emergency Medical Services Practice Act;
- 13 (12) The Environmental Health Specialists Practice Act;
- 14 (13) The Funeral Directing and Embalming Practice Act;
- 15 (14) The Hearing Aid Instrument Dispensers and Fitters
- 16 Practice Act;
- 17 (15) The Licensed Practical Nurse-Certified Practice Act;
- 18 (16) The Massage Therapy Practice Act;
- 19 (17) The Medical Nutrition Therapy Practice Act;
- 20 (18) The Medical Radiography Practice Act;
- 21 (19) The Medicine and Surgery Practice Act;
- 22 (20) The Mental Health Practice Act;
- 23 (21) The Nurse Practice Act;
- 24 (22) The Nurse Practitioner Practice Act;
- 25 (23) The Nursing Home Administrator Practice Act;

1 (24) The Occupational Therapy Practice Act;
2 (25) The Optometry Practice Act;
3 (26) The Perfusion Practice Act;
4 ~~(26)~~ (27) The Pharmacy Practice Act;
5 ~~(27)~~ (28) The Physical Therapy Practice Act;
6 ~~(28)~~ (29) The Podiatry Practice Act;
7 ~~(29)~~ (30) The Psychology Practice Act;
8 ~~(30)~~ (31) The Respiratory Care Practice Act;
9 ~~(31)~~ (32) The Veterinary Medicine and Surgery Practice
10 Act; and
11 ~~(32)~~ (33) The Water Well Standards and Contractors'
12 Practice Act.

13 If there is any conflict between any provision of
14 sections 1 to 139 of this act and any provision of a practice
15 act, the provision of the practice act shall prevail.

16 The Revisor of Statutes shall assign the Uniform
17 Credentialing Act, including the practice acts enumerated in
18 subdivisions (1) through ~~(31)~~ (32) of this section, to consecutive
19 articles within Chapter 38.

20 Sec. 59. Section 71-102, Revised Statutes Cumulative
21 Supplement, 2006, as amended by section 297, Legislative Bill
22 296, One Hundredth Legislature, First Session, 2007, section
23 21, Legislative Bill 463, One Hundredth Legislature, First
24 Session, 2007, and section 2, Legislative Bill 236, One Hundredth
25 Legislature, First Session, 2007, is amended to read:

1 ~~71-102~~ (1) No individual shall engage in the ~~practice~~
2 ~~of perfusion or the~~ following practices unless such individual has
3 obtained a credential under the Uniform Credentialing Act:

- 4 (a) Acupuncture;
- 5 (b) Advanced practice nursing;
- 6 (c) Alcohol and drug counseling;
- 7 (d) Asbestos abatement, inspection, project design, and
8 training;
- 9 (e) Athletic training;
- 10 (f) Audiology;
- 11 (g) Speech-language pathology;
- 12 (h) Body art;
- 13 (i) Chiropractic;
- 14 (j) Cosmetology;
- 15 (k) Dentistry;
- 16 (l) Dental hygiene;
- 17 (m) Electrology;
- 18 (n) Emergency medical services;
- 19 (o) Esthetics;
- 20 (p) Funeral directing and embalming;
- 21 (q) Hearing aid instrument dispensing and fitting;
- 22 (r) Lead-based paint abatement, inspection, project
23 design, and training;
- 24 (s) Licensed practical nurse-certified;
- 25 (t) Massage therapy;

- 1 (u) Medical nutrition therapy;
- 2 (v) Medical radiography;
- 3 (w) Medicine and surgery;
- 4 (x) Mental health practice;
- 5 (y) Nail technology;
- 6 (z) Nursing;
- 7 (aa) Nursing home administration;
- 8 (bb) Occupational therapy;
- 9 (cc) Optometry;
- 10 (dd) Osteopathy;
- 11 (ee) Perfusion;
- 12 ~~(ee)~~ (ff) Pharmacy;
- 13 ~~(ff)~~ (gg) Physical therapy;
- 14 ~~(gg)~~ (hh) Podiatry;
- 15 ~~(hh)~~ (ii) Psychology;
- 16 ~~(ii)~~ (jj) Radon detection, measurement, and mitigation;
- 17 ~~(jj)~~ (kk) Respiratory care;
- 18 ~~(kk)~~ (ll) Veterinary medicine and surgery;
- 19 ~~(ll)~~ (mm) Public water system operation; and
- 20 ~~(mm)~~ (nn) Constructing or decommissioning water wells and
- 21 installing water well pumps and pumping equipment.

22 (2) No individual shall hold himself or herself out

23 as any of the following until such individual has obtained a

24 credential under the Uniform Credentialing Act for that purpose:

- 25 (a) Registered environmental health specialist;

1 (b) Certified marriage and family therapist;

2 (c) Certified professional counselor; or

3 (d) Social worker.

4 (3) No business shall operate for the provision of any
5 of the following services unless such business has obtained a
6 credential under the Uniform Credentialing Act:

7 (a) Body art;

8 (b) Cosmetology;

9 (c) Emergency medical services;

10 (d) Esthetics;

11 (e) Funeral directing and embalming;

12 (f) Massage therapy; or

13 (g) Nail technology.

14 Sec. 60. Section 71-104.01, Revised Statutes Cumulative
15 Supplement, 2006, as amended by section 31, Legislative Bill 463,
16 One Hundredth Legislature, First Session, 2007, and section 2,
17 Legislative Bill 481, One Hundredth Legislature, First Session,
18 2007, is amended to read:

19 ~~71-104.01~~ (1) An applicant for an initial license to
20 practice a profession which is authorized to prescribe controlled
21 substances shall be subject to a criminal background check. Except
22 as provided in subsection (3) of this section, the applicant shall
23 submit with the application a full set of fingerprints which shall
24 be forwarded to the Nebraska State Patrol to be submitted to the
25 Federal Bureau of Investigation for a national criminal history

1 record information check. The applicant shall authorize release of
2 the results of the national criminal history record information
3 check to the department. The applicant shall pay the actual cost of
4 the fingerprinting and criminal background check.

5 (2) This section shall not apply to a dentist who is an
6 applicant for a dental locum tenens under section 455 of this act
7 or to a physician or osteopathic physician who is an applicant for
8 a physician locum tenens under section 694 of this act.

9 (3) An applicant for a temporary educational permit as
10 defined in section ~~71-1,107.01~~ 677 of Legislative Bill 463, One
11 Hundredth Legislature, First Session, 2007, shall have ninety days
12 from the issuance of the permit to comply with subsection (1)
13 of this section and shall have his or her permit suspended after
14 such ninety-day period if the criminal background check is not
15 complete or revoked if the criminal background check reveals that
16 the applicant was not qualified for the permit.

17 Sec. 61. Section 125, Legislative Bill 463, One Hundredth
18 Legislature, First Session, 2007, is amended to read:

19 Sec. 125. (1) Every credential holder, except pharmacist
20 interns and pharmacy technicians, shall, within thirty days of an
21 occurrence described in this subsection, report to the department
22 in such manner and form as the department may require whenever he
23 or she:

24 (a) Has first-hand knowledge of facts giving him or her
25 reason to believe that any person in his or her profession:

1 (i) Has acted with gross incompetence or gross
2 negligence;

3 (ii) Has engaged in a pattern of incompetent or negligent
4 conduct as defined in section 77 of this act;

5 (iii) Has engaged in unprofessional conduct as defined in
6 section 79 of this act;

7 (iv) Has been practicing while his or her ability
8 to practice is impaired by alcohol, controlled substances,
9 mind-altering substances, or physical, mental, or emotional
10 disability; or

11 (v) Has otherwise violated the regulatory provisions
12 governing the practice of the profession;

13 (b) Has first-hand knowledge of facts giving him or her
14 reason to believe that any person in another profession:

15 (i) Has acted with gross incompetence or gross
16 negligence; or

17 (ii) Has been practicing while his or her ability
18 to practice is impaired by alcohol, controlled substances,
19 mind-altering substances, or physical, mental, or emotional
20 disability; or

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

22 (i) Loss of privileges in a hospital or other health
23 care facility due to alleged incompetence, negligence, unethical or
24 unprofessional conduct, or physical, mental, or chemical impairment
25 or the voluntary limitation of privileges or resignation from

1 the staff of any health care facility when that occurred while
2 under formal or informal investigation or evaluation by the
3 facility or a committee of the facility for issues of clinical
4 competence, unprofessional conduct, or physical, mental, or
5 chemical impairment;

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

9 (iii) An adverse judgment, settlement, or award arising
10 out of a professional liability claim, including a settlement made
11 prior to suit in which the consumer releases any professional
12 liability claim against the credentialed person, or adverse action
13 by an insurance company affecting professional liability coverage.
14 The department may define what constitutes a settlement that would
15 be reportable when a credential holder refunds or reduces a fee or
16 makes no charge for reasons related to a consumer complaint other
17 than costs;

18 (iv) Denial of a credential or other form of
19 authorization to practice by any jurisdiction due to alleged
20 incompetence, negligence, unethical or unprofessional conduct, or
21 physical, mental, or chemical impairment;

22 (v) Disciplinary action against any credential or other
23 form of permit he or she holds taken by any jurisdiction, the
24 settlement of such action, or any voluntary surrender of or
25 limitation on any such credential or other form of permit;

1 (vi) Loss of membership in, or discipline of a
2 credential related to the applicable profession by, a professional
3 organization due to alleged incompetence, negligence, unethical
4 or unprofessional conduct, or physical, mental, or chemical
5 impairment; or

6 (vii) Conviction of any misdemeanor or felony in this or
7 any other jurisdiction.

8 (2) The requirement to file a report under subdivision
9 (1) (a) or (b) of this section shall not apply:

10 (a) To the spouse of the credential holder;

11 (b) To a practitioner who is providing treatment to
12 such credential holder in a practitioner-consumer relationship
13 concerning information obtained or discovered in the course of
14 treatment unless the treating practitioner determines that the
15 condition of the credential holder may be of a nature which
16 constitutes a danger to the public health and safety by the
17 credential holder's continued practice; or

18 (c) When a credential holder who is chemically impaired
19 enters the Licensee Assistance Program authorized by section 75 of
20 this act except as otherwise provided in such section.

21 (3) A report submitted by a professional liability
22 insurance company on behalf of a credential holder within the
23 thirty-day period prescribed in subsection (1) of this section
24 shall be sufficient to satisfy the credential holder's reporting
25 requirement under subsection (1) of this section.

1 Sec. 62. Section 71-1,200, Reissue Revised Statutes
2 of Nebraska, as amended by section 130, Legislative Bill 463,
3 One Hundredth Legislature, First Session, 2007, and section 1,
4 Legislative Bill 152, One Hundredth Legislature, First Session,
5 2007, is amended to read:

6 ~~71-1,200~~ Any insurer shall report to the department, on
7 a form and in the manner specified by the department by rule and
8 regulation, any facts known to the insurer, including, but not
9 limited to, the identity of the credential holder and consumer,
10 when the insurer:

11 (1) Has reasonable grounds to believe that a person
12 required to be credentialed has committed a violation of
13 the provisions of the Uniform Credentialing Act governing
14 the profession of such person whether or not such person is
15 credentialed;

16 (2) Has made payment due to an adverse judgment,
17 settlement, or award resulting from a professional liability claim
18 against the insurer, a health care facility or health care service
19 as defined in the Health Care Facility Licensure Act, or a
20 person required to be credentialed whether or not such person is
21 credentialed, including settlements made prior to suit in which
22 the consumer releases any professional liability claim against the
23 ~~credentialed person, in which the patient releases any professional~~
24 ~~liability claim against the insurer, health care facility or health~~
25 ~~care service, or practitioner, person required to be credentialed,~~

1 arising out of the acts or omissions of such person;

2 (3) Takes an adverse action affecting the coverage
3 provided by the insurer to a person required to be credentialed,
4 whether or not such person is credentialed, due to alleged
5 incompetence, negligence, unethical or unprofessional conduct,
6 or physical, mental, or chemical impairment. For purposes of
7 this section, adverse action does not include raising rates for
8 professional liability coverage unless it is based upon grounds
9 that would be reportable and no prior report has been made to the
10 department; or

11 (4) Has been requested by the department to provide
12 information.

13 Sec. 63. Section 187, Legislative Bill 463, One Hundredth
14 Legislature, First Session, 2007, is amended to read:

15 Sec. 187. Sections 187 to 212 of this act and section 66
16 of this act shall be known and may be cited as the Audiology and
17 Speech-Language Pathology Practice Act.

18 Sec. 64. Section 71-1,186, Reissue Revised Statutes of
19 Nebraska, as amended by section 27, Legislative Bill 247, One
20 Hundredth Legislature, First Session, 2007, and section 188,
21 Legislative Bill 463, One Hundredth Legislature, First Session,
22 2007, is amended to read:

23 ~~71-1,186~~ For purposes of the Audiology and
24 Speech-Language Pathology Practice Act and elsewhere in the Uniform
25 Credentialing Act, unless the context otherwise requires, the

1 definitions found in sections 189 to 194 of this act and section 66
2 of this act apply.

3 Sec. 65. Section 191, Legislative Bill 463, One Hundredth
4 Legislature, First Session, 2007, is amended to read:

5 Sec. 191. ~~Communication assistant~~ Audiology or
6 speech-language pathology assistant or any individual who presents
7 himself or herself to the public by any title or description
8 with the same duties means any person who, following specified
9 training and receiving specified supervision, provides specified
10 limited structured communication or swallowing services, which are
11 developed and supervised by a licensed audiologist or licensed
12 speech-language pathologist, in the areas in which the supervisor
13 holds licenses.

14 Sec. 66. Dysphagia means disorders of swallowing.

15 Sec. 67. Section 192, Legislative Bill 463, One Hundredth
16 Legislature, First Session, 2007, is amended to read:

17 Sec. 192. Practice of audiology means the application of
18 principles, methods, and procedures for testing, measuring, and
19 monitoring hearing, preparation of ear impressions and selection
20 of hearing aids, aural rehabilitation, hearing conservation,
21 vestibular testing of patients when vestibular testing is done as
22 a result of a referral by a physician, and instruction related to
23 hearing and disorders of hearing for the purpose of preventing,
24 identifying, evaluating, and minimizing the effects of such
25 disorders and conditions but shall not include the practice of

1 ~~medical diagnosis, medical treatment, or surgery.~~ evidence-based
2 practice in clinical decisionmaking for the prevention, assessment,
3 habilitation, rehabilitation, and maintenance of persons with
4 hearing, auditory function, and vestibular function impairments
5 and related impairments, including (1) cerumen removal from the
6 cartilaginous outer one-third portion of the external auditory
7 canal when the presence of cerumen may affect the accuracy
8 of hearing evaluations or impressions of the ear canal for
9 amplification devices and (2) evaluation, selection, fitting, and
10 dispensing of hearing aids, external processors of implantable
11 hearing aids, and assistive technology devices as part of a
12 comprehensive audiological rehabilitation program. Practice of
13 audiology does not include the practice of medical diagnosis,
14 medical treatment, or surgery.

15 Sec. 68. Section 193, Legislative Bill 463, One Hundredth
16 Legislature, First Session, 2007, is amended to read:

17 Sec. 193. Practice of speech-language pathology means
18 the application of principles, and methods, associated with
19 and procedures for the evaluation, monitoring, instruction,
20 habilitation, or rehabilitation related to the development and
21 disorders of speech, voice, or language for the purpose of
22 preventing, identifying, evaluating, and minimizing the effects
23 of such disorders and conditions but does not include the
24 practice of medical diagnosis, medical treatment, or surgery.
25 human communication skills and with dysphagia, which principles

1 and methods include screening, assessment, evaluation, treatment,
2 prevention, consultation, and restorative modalities for speech,
3 voice, language, language-based learning, hearing, swallowing, or
4 other upper aerodigestive functions for the purpose of improving
5 quality of life by reducing impairments of body functions and
6 structures, activity limitations, participation restrictions, and
7 environmental barriers. Practice of speech-language pathology does
8 not include the practice of medical diagnosis, medical treatment,
9 or surgery.

10 Sec. 69. Section 71-1,195.09, Reissue Revised Statutes
11 of Nebraska, as amended by section 37, Legislative Bill 247,
12 One Hundredth Legislature, First Session, 2007, and section 211,
13 Legislative Bill 463, One Hundredth Legislature, First Session,
14 2007, is amended to read:

15 ~~71-1,195.09~~ The supervising audiologist or
16 speech-language pathologist shall provide annual reports to the
17 department verifying that evaluation, supervision, and training
18 required by section ~~71-1,195.08~~ 210 of Legislative Bill 463, One
19 Hundredth Legislature, First Session, 2007, has been completed.
20 The audiologist or speech-language pathologist shall keep accurate
21 records of such evaluation, supervision, and training.

22 Sec. 70. Section 71-4702, Reissue Revised Statutes of
23 Nebraska, as amended by section 52, Legislative Bill 247, One
24 Hundredth Legislature, First Session, 2007, and section 573,
25 Legislative Bill 463, One Hundredth Legislature, First Session,

1 2007, is amended to read:

2 ~~71-4702~~ (1) No person shall engage in the sale of or
3 practice of fitting hearing aids or display a sign or in any other
4 way advertise or represent himself or herself as a person who
5 practices the fitting and sale or dispensing of hearing aids unless
6 he or she holds an unsuspended, unrevoked license issued by the
7 department as provided in the Hearing Aid Instrument Dispensers and
8 Fitters Practice Act. A license shall confer upon the holder the
9 right to select, fit, and sell hearing aids.

10 (2) A licensed audiologist who maintains a practice
11 pursuant to licensure as an audiologist in which hearing aids are
12 regularly dispensed or who intends to maintain such a practice
13 shall also be licensed pursuant to subsection (4) of section
14 ~~71-4707.~~ 576 of Legislative Bill 463, One Hundredth Legislature,
15 First Session, 2007, as amended by section 71 of this legislative
16 bill.

17 (3) Nothing in the act shall prohibit a corporation,
18 partnership, limited liability company, trust, association, or
19 other like organization maintaining an established business address
20 from engaging in the business of selling or offering for sale
21 hearing aids at retail without a license if it employs only
22 properly licensed natural persons in the direct sale and fitting of
23 such products.

24 (4) Nothing in the act shall prohibit the holder of
25 a license from the fitting and sale of wearable instruments or

1 devices designed for or offered for the purpose of conservation or
2 protection of hearing.

3 Sec. 71. Section 71-4707, Reissue Revised Statutes of
4 Nebraska, as amended by section 576, Legislative Bill 463, One
5 Hundredth Legislature, First Session, 2007, is amended to read:

6 ~~71-4707~~ (1) Any person may obtain a license under the
7 Hearing Aid Instrument Dispensers and Fitters Practice Act by
8 successfully passing a qualifying examination if the applicant:

9 (a) Is at least twenty-one years of age; and

10 (b) Has an education equivalent to a four-year course in
11 an accredited high school.

12 (2) The qualifying examination shall consist of written
13 and practical tests. The examination shall not be conducted in
14 such a manner that college training is required in order to
15 pass. Nothing in this examination shall imply that the applicant
16 is required to possess the degree of medical competence normally
17 expected of physicians.

18 (3) The department shall give examinations approved by
19 the board. A minimum of two examinations shall be offered each
20 calendar year.

21 (4) The department shall issue a license without
22 examination to a licensed audiologist who maintains a practice
23 pursuant to licensure as an audiologist in which hearing aids are
24 regularly dispensed or who intends to maintain such a practice upon
25 application to the department, proof of licensure, and payment of a

1 twenty-five-dollar fee.

2 Sec. 72. Section 720, Legislative Bill 463, One Hundredth
3 Legislature, First Session, 2007, is amended to read:

4 Sec. 720. Sections 720 to 756 of this act and sections 39
5 and 42 of this act shall be known and may be cited as the Mental
6 Health Practice Act.

7 Sec. 73. Section 71-1,135.02, Reissue Revised Statutes
8 of Nebraska, as amended by section 23, Legislative Bill 236,
9 One Hundredth Legislature, First Session, 2007, section 341,
10 Legislative Bill 296, One Hundredth Legislature, First Session,
11 2007, and section 885, Legislative Bill 463, One Hundredth
12 Legislature, First Session, 2007, is amended to read:

13 ~~71-1,135.02~~ (1) An optometrist licensed in this state may
14 use topical ocular pharmaceutical agents for diagnostic purposes
15 authorized under subdivision ~~(2)~~ (1)(b) of section ~~71-1,133~~ 877
16 of Legislative Bill 463, One Hundredth Legislature, First Session,
17 2007, if such person ~~submits to the department the required fee~~
18 ~~and~~ is certified by the department, with the recommendation of
19 the ~~Board of Optometry,~~ board, as qualified to use topical ocular
20 pharmaceutical agents for diagnostic purposes.

21 (2) Such certification shall require (a) satisfactory
22 completion of a pharmacology course at an institution accredited
23 by a regional or professional accrediting organization which is
24 recognized by the United States Department of Education and
25 approved by the board and passage of an examination approved

1 by the board or (b) evidence provided by the optometrist of
2 certification in another state for use of diagnostic pharmaceutical
3 agents which is deemed by the board as satisfactory validation of
4 such qualifications.

5 ~~(2) An optometrist licensed in this state may use topical~~
6 ~~ocular pharmaceutical agents for therapeutic purposes authorized~~
7 ~~under subdivision (2) or (3) of section 71-1,133 if such person~~
8 ~~submits to the department the required fee and is certified by~~
9 ~~the department, with the recommendation of the Board of Optometry,~~
10 ~~as qualified to use ocular pharmaceutical agents for therapeutic~~
11 ~~purposes, including the treatment of glaucoma. Such certification~~
12 ~~shall require (a) satisfactory completion of classroom education~~
13 ~~and clinical training which emphasizes the examination, diagnosis,~~
14 ~~and treatment of the eye, ocular adnexa, and visual system offered~~
15 ~~by a school or college approved by the board and passage of an~~
16 ~~examination approved by the board or (b) evidence provided by~~
17 ~~the optometrist of certification in another state for the use of~~
18 ~~therapeutic pharmaceutical agents which is deemed by the board as~~
19 ~~satisfactory validation of such qualifications.~~

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. 74. Section 886, Legislative Bill 463, One Hundredth
25 Legislature, First Session, 2007, is amended to read:

1 Sec. 886. (1) ~~No~~ An optometrist licensed in this state
2 ~~on or after April 30, 1987,~~ shall may use topical ocular
3 pharmaceutical agents for therapeutic purposes authorized under
4 subdivision ~~(1)(e)~~ (1)(b) or (c) of section 877 of this act
5 ~~unless if~~ such person ~~(a) submits to the department evidence of~~ is
6 certified by the department, with the recommendation of the board,
7 as qualified to use ocular pharmaceutical agents for therapeutic
8 purposes, including the treatment of glaucoma.

9 (2) Such certification shall require (a) satisfactory
10 ~~completion of a minimum of one hundred hours since January 1, 1984,~~
11 ~~of which forty hours shall be classroom education and sixty hours~~
12 ~~shall be supervised clinical training as it applies to optometry~~
13 ~~with particular emphasis on~~ which emphasizes the examination,
14 diagnosis, and treatment of the eye, ocular adnexa, and visual
15 system offered by a school or college approved by the board, ~~(b)~~
16 ~~passes~~ and passage of an examination approved by the board, ~~(c)~~ has
17 been certified by the department, with the recommendation of the
18 board, to use topical ocular pharmaceutical agents for therapeutic
19 purposes, and ~~(d)~~ has been certified by the department, with the
20 recommendation of the board, to use topical ocular pharmaceutical
21 agents for diagnostic purposes. or (b) evidence provided by the
22 optometrist of certification in another state for the use of
23 therapeutic pharmaceutical agents which is deemed by the board as
24 satisfactory validation of such qualifications.

25 ~~(2) The board may approve for certification pursuant to~~

1 subdivision ~~(1)(a)~~ of this section a therapeutic course or courses
2 of instruction, from an institution accredited by a regional or
3 professional accrediting organization which is recognized by the
4 United States Department of Education, that have been completed
5 after January 1, 1984. Such course or courses shall include, but
6 not be limited to:

- 7 ~~(a) Review of general pharmacology and therapeutics;~~
- 8 ~~(b) Review of ocular therapeutic pharmacology;~~
- 9 ~~(c) Diagnosis and treatment of diseases of the eye,~~
10 ~~ocular adnexa, and visual system;~~
- 11 ~~(d) Diagnosis of corneal disease and trauma including~~
12 ~~corneal foreign bodies;~~
- 13 ~~(e) Diagnosis and treatment of anterior segment eye~~
14 ~~diseases;~~
- 15 ~~(f) Clinical procedures related to the diagnosis and~~
16 ~~treatment of the eye, ocular adnexa, and visual system;~~
- 17 ~~(g) Ocular manifestations of systemic disease;~~
- 18 ~~(h) Review of systemic disease syndromes;~~
- 19 ~~(i) Ocular therapy including management of acute systemic~~
20 ~~emergencies; and~~
- 21 ~~(j) Consultation criteria in ocular disease and trauma.~~

22 Sec. 75. Section 887, Legislative Bill 463, One Hundredth
23 Legislature, First Session, 2007, is amended to read:

24 Sec. 887. ~~(1) An optometrist who is licensed and~~
25 ~~certified to use pharmaceutical agents for therapeutic purposes~~

1 on July 15, 1998, who graduated from an accredited school of
2 optometry prior to January 1, 1996, shall complete the educational
3 requirements relative to the treatment of glaucoma, as approved
4 by the board, prior to January 1, 2000, and shall complete
5 such educational requirements prior to treating glaucoma. Failure
6 to complete such education prior to January 1, 2000, shall
7 result in the revocation of the licensee's certification to use
8 pharmaceutical agents for therapeutic purposes.

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

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

19 After January 1, 2000, only an optometrist licensed in
20 this state prior to April 30, 1987, may practice optometry without
21 meeting the requirements and obtaining certification required by
22 sections 73 and 74 of this act.

23 Sec. 76. Section 8, Legislative Bill 236, One Hundredth
24 Legislature, First Session, 2007, is amended to read:

25 Sec. 8. Sections 8 to 19 of this act and section 78 of

1 this act shall be known and may be cited as the Perfusion Practice
2 Act.

3 Sec. 77. Section 12, Legislative Bill 236, One Hundredth
4 Legislature, First Session, 2007, is amended to read:

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

7 ~~(1) Submit a complete application to the department as~~
8 ~~required under the Uniform Licensing Law;~~

9 ~~(2) Pay the fee established and collected as provided in~~
10 ~~sections 71-162 to 71-162.05;~~

11 ~~(3)~~ (1) Submit evidence of successful completion of a
12 perfusion education program with standards established by the
13 Accreditation Committee for Perfusion Education and approved by
14 the Commission on Accreditation of Allied Health Education Programs
15 or a program with substantially equivalent education standards
16 approved by the board; and

17 ~~(4)~~ (2) Submit evidence of successful completion of
18 the certification examinations offered by the American Board of
19 Cardiovascular Perfusion, or its successor, or a substantially
20 equivalent examination approved by the board.

21 Sec. 78. The department shall establish and collect fees
22 for initial licensure and renewal under the Perfusion Practice Act
23 as provided in sections 51 to 57 of Legislative Bill 463, One
24 Hundredth Legislature, First Session, 2007.

25 Sec. 79. Section 897, Legislative Bill 463, One Hundredth

1 Legislature, First Session, 2007, is amended to read:

2 Sec. 897. Sections 897 to 993 of this act and sections
3 31 to 38 of Legislative Bill 236, One Hundredth Legislature, First
4 Session, 2007, shall be known and may be cited as the Pharmacy
5 Practice Act.

6 Sec. 80. Section 932, Legislative Bill 463, One Hundredth
7 Legislature, First Session, 2007, is amended to read:

8 Sec. 932. Pharmacy technician means an individual ~~at~~
9 ~~least eighteen years of age who is a high school graduate or~~
10 ~~officially recognized by the State Department of Education as~~
11 ~~possessing the equivalent degree of education, who has never~~
12 ~~been convicted of any drug-related misdemeanor or felony, and~~
13 ~~who, under the written control procedures and guidelines of an~~
14 ~~employing pharmacy, may perform those functions which do not~~
15 ~~require professional judgment and which are subject to verification~~
16 ~~to assist a pharmacist in the practice of pharmacy.~~ registered
17 under sections 31 to 38 of Legislative Bill 236, One Hundredth
18 Legislature, First Session, 2007.

19 Sec. 81. Section 71-1,147, Reissue Revised Statutes of
20 Nebraska, as amended by section 30, Legislative Bill 236, One
21 Hundredth Legislature, First Session, 2007, and section 963,
22 Legislative Bill 463, One Hundredth Legislature, First Session,
23 2007, is amended to read:

24 ~~71-1,147~~ (1) Except as provided for pharmacy technicians
25 in ~~section 986 of this act~~ sections 31 to 38 of this act and

1 for individuals authorized to dispense under a delegated dispensing
2 permit, no person other than a licensed pharmacist, a pharmacist
3 intern, or a practitioner with a pharmacy license shall provide
4 pharmaceutical care, compound and dispense drugs or devices, or
5 dispense pursuant to a medical order. Notwithstanding any other
6 provision of law to the contrary, a pharmacist or pharmacist intern
7 may dispense drugs or devices pursuant to a medical order of
8 a practitioner authorized to prescribe in another state if such
9 practitioner could be authorized to prescribe such drugs or devices
10 in this state.

11 (2) Except as provided for pharmacy technicians in
12 ~~section 986 of this act~~ sections 31 to 38 of this act and
13 for individuals authorized to dispense under a delegated dispensing
14 permit, it shall be unlawful for any person to permit or direct a
15 person who is not a pharmacist intern, a licensed pharmacist, or
16 a practitioner with a pharmacy license to provide pharmaceutical
17 care, compound and dispense drugs or devices, or dispense pursuant
18 to a medical order.

19 (3) It shall be unlawful for any person to coerce
20 or attempt to coerce a pharmacist to enter into a delegated
21 dispensing agreement or to supervise any pharmacy technician for
22 any purpose or in any manner contrary to the professional judgment
23 of the pharmacist. Violation of this subsection by a health care
24 professional regulated pursuant to the Uniform Credentialing Act
25 shall be considered an act of unprofessional conduct. A violation

1 of this subsection by a facility shall be prima facie evidence
2 in an action against the license of the facility pursuant to the
3 Health Care Facility Licensure Act. Any pharmacist subjected to
4 coercion or attempted coercion pursuant to this subsection has a
5 cause of action against the person and may recover his or her
6 damages and reasonable attorney's fees.

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

9 Sec. 82. Section 32, Legislative Bill 236, One Hundredth
10 Legislature, First Session, 2007, is amended to read:

11 Sec. 32. (1) A pharmacy technician shall only perform
12 tasks which do not require professional judgment and which are
13 subject to verification to assist a pharmacist in the practice of
14 pharmacy.

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

17 (a) Receiving oral medical orders from a practitioner or
18 his or her agent;

19 (b) Providing patient counseling;

20 (c) Performing any evaluation or necessary clarification
21 of a medical order or performing any functions other than strictly
22 clerical functions involving a medical order;

23 (d) Supervising or verifying the tasks and functions of
24 pharmacy technicians;

25 (e) Interpreting or evaluating the data contained in a

1 patient's record maintained pursuant to section ~~71-1,147.35,~~ 965
2 of Legislative Bill 463, One Hundredth Legislature, First Session,
3 2007;

4 (f) Releasing any confidential information maintained by
5 the pharmacy;

6 (g) Performing any professional consultations; and

7 (h) Drug product selection, with regard to an individual
8 medical order, in accordance with the Nebraska Drug Product
9 Selection Act.

10 (3) The director shall, with the recommendation of the
11 board, waive any of the limitations in subsection (2) of this
12 section for purposes of a scientific study of the role of pharmacy
13 technicians approved by the board. Such study shall be based
14 upon providing improved patient care or enhanced pharmaceutical
15 care. Any such waiver shall state the length of the study and
16 shall require that all study data and results be made available
17 to the board upon the completion of the study. Nothing in this
18 subsection requires the board to approve any study proposed under
19 this subsection.

20 Sec. 83. Section 35, Legislative Bill 236, One Hundredth
21 Legislature, First Session, 2007, is amended to read:

22 Sec. 35. (1) A registration to practice as a pharmacy
23 technician may be denied, refused renewal, removed, or suspended
24 or have other disciplinary measures taken against it by the
25 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
17 Licensee Assistance Program described in section ~~71-172.01~~. 75 of
18 Legislative Bill 463, One Hundredth Legislature, First Session,
19 2007.

20 Sec. 84. Section 36, Legislative Bill 236, One Hundredth
21 Legislature, First Session, 2007, is amended to read:

22 Sec. 36. (1) If a pharmacy technician performs
23 functions requiring professional judgment and licensure as a
24 pharmacist, performs functions not specified under approved written
25 control procedures and guidelines, or performs functions without

1 supervision and such acts are known to the pharmacist supervising
2 the pharmacy technician or the pharmacist in charge or are of such
3 a nature that they should have been known to a reasonable person,
4 such acts may be considered acts of unprofessional conduct on the
5 part of the pharmacist supervising the pharmacy technician or the
6 pharmacist in charge pursuant to section ~~71-147~~, 78 of Legislative
7 Bill 463, One Hundredth Legislature, First Session, 2007, and
8 disciplinary measures may be taken against such pharmacist
9 supervising the pharmacy technician or the pharmacist in charge
10 pursuant to the Uniform ~~Licensing Law~~, Credentialing Act.

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

22 Sec. 85. Section 42, Legislative Bill 236, One Hundredth
23 Legislature, First Session, 2007, is amended to read:

24 Sec. 42. Sections 39 to 41 of this act do not apply to
25 the performance of health maintenance activities by designated care

1 aides pursuant to section ~~71-1,132.30~~ 775 of Legislative Bill 463,
2 One Hundredth Legislature, First Session, 2007, or to persons who
3 provide personal assistant services, respite care or habilitation
4 services, or aged and disabled services.

5 Sec. 86. (1) Notwithstanding section 44-3,131, (a)
6 any individual or group sickness and accident insurance policy,
7 certificate, or subscriber contract delivered, issued for delivery,
8 or renewed in this state and any hospital, medical, or surgical
9 expense-incurred policy, except for short-term major medical
10 policies of six months or less duration and policies that provide
11 coverage for a specified disease or other limited-benefit coverage,
12 and (b) any self-funded employee benefit plan to the extent not
13 preempted by federal law shall include screening coverage for a
14 colorectal cancer examination and laboratory tests for cancer for
15 any nonsymptomatic person fifty years of age and older covered
16 under such policy, certificate, contract, or plan. Such screening
17 coverage shall include a maximum of one screening fecal occult
18 blood test annually and a flexible sigmoidoscopy every five years,
19 a colonoscopy every ten years, or a barium enema every five to
20 ten years, or any combination, or the most reliable, medically
21 recognized screening test available. The screenings selected shall
22 be as deemed appropriate by a health care provider and the patient.

23 (2) This section does not prevent application of
24 deductible or copayment provisions contained in the policy,
25 certificate, contract, or employee benefit plan or require that

1 such coverage be extended to any other procedures.

2 Sec. 87. The Revisor of Statutes shall assign section 18
3 of this act within sections 43-101 to 43-116.

4 Sec. 88. Sections 58, 59, 60, 61, 62, 63, 64, 65, 66, 67,
5 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84,
6 85, 90, and 91 of this act become operative on December 1, 2008.
7 The other sections of this act become operative on their effective
8 date.

9 Sec. 89. Original sections 43-102, 43-104, 43-104.01,
10 43-104.02, 43-104.03, 43-104.04, 43-104.05, 43-104.08, 43-104.09,
11 43-104.12, 43-104.13, 43-104.14, 43-104.17, 43-104.22, 43-105,
12 43-106, 43-906, 43-1411, 71-193.15, 71-193.17, 71-1,186, 71-1,187,
13 71-1,195.01, 71-1,195.02, 71-1,195.03, 71-1,195.04, 71-1,195.05,
14 71-1,195.06, 71-1,195.07, 71-1,195.08, 71-1,195.09, 71-1,296,
15 71-1,307, 71-1,308, 71-1,315, 71-1,316, 71-1,333, 71-1,335,
16 71-1,336, 71-1,337, 71-1,338, 71-2421, 71-4702, 71-4707, 71-8402,
17 and 81-651, Reissue Revised Statutes of Nebraska, and sections
18 28-401, 28-405, 28-412, 71-101, 71-1,147.35, 71-1913.01, 71-5403,
19 and 71-7438, Revised Statutes Cumulative Supplement, 2006, are
20 repealed.

21 Sec. 90. Original section 71-1,135.02, Reissue Revised
22 Statutes of Nebraska, as amended by section 23, Legislative Bill
23 236, One Hundredth Legislature, First Session, 2007, section 341,
24 Legislative Bill 296, One Hundredth Legislature, First Session,
25 2007, and section 885, Legislative Bill 463, One Hundredth

1 Legislature, First Session, 2007; section 71-1,147, Reissue Revised
2 Statutes of Nebraska, as amended by section 30, Legislative
3 Bill 236, One Hundredth Legislature, First Session, 2007, and
4 section 963, Legislative Bill 463, One Hundredth Legislature,
5 First Session, 2007; section 71-1,186, Reissue Revised Statutes
6 of Nebraska, as amended by section 27, Legislative Bill 247,
7 One Hundredth Legislature, First Session, 2007, and section 188,
8 Legislative Bill 463, One Hundredth Legislature, First Session,
9 2007; section 71-1,195.09, Reissue Revised Statutes of Nebraska,
10 as amended by section 37, Legislative Bill 247, One Hundredth
11 Legislature, First Session, 2007, and section 211, Legislative
12 Bill 463, One Hundredth Legislature, First Session, 2007; section
13 71-1,200, Reissue Revised Statutes of Nebraska, as amended by
14 section 130, Legislative Bill 463, One Hundredth Legislature, First
15 Session, 2007, and section 1, Legislative Bill 152, One Hundredth
16 Legislature, First Session, 2007; section 71-4702, Reissue Revised
17 Statutes of Nebraska, as amended by section 52, Legislative
18 Bill 247, One Hundredth Legislature, First Session, 2007, and
19 section 573, Legislative Bill 463, One Hundredth Legislature,
20 First Session, 2007; section 71-4707, Reissue Revised Statutes of
21 Nebraska, as amended by section 576, Legislative Bill 463, One
22 Hundredth Legislature, First Session, 2007; section 71-101, Revised
23 Statutes Cumulative Supplement, 2006, as amended by section 296,
24 Legislative Bill 296, One Hundredth Legislature, First Session,
25 2007, section 1, Legislative Bill 463, One Hundredth Legislature,

1 First Session, 2007, section 1, Legislative Bill 236, One Hundredth
2 Legislature, First Session, 2007, section 1, Legislative Bill 481,
3 One Hundredth Legislature, First Session, 2007, and section 23,
4 Legislative Bill 247, One Hundredth Legislature, First Session,
5 2007; section 71-102, Revised Statutes Cumulative Supplement, 2006,
6 as amended by section 297, Legislative Bill 296, One Hundredth
7 Legislature, First Session, 2007, section 21, Legislative Bill 463,
8 One Hundredth Legislature, First Session, 2007, and section 2,
9 Legislative Bill 236, One Hundredth Legislature, First Session,
10 2007; section 71-104.01, Revised Statutes Cumulative Supplement,
11 2006, as amended by section 31, Legislative Bill 463, One Hundredth
12 Legislature, First Session, 2007, and section 2, Legislative Bill
13 481, One Hundredth Legislature, First Session, 2007; sections 125,
14 187, 191, 192, 193, 720, 886, 887, 897, and 932, Legislative Bill
15 463, One Hundredth Legislature, First Session, 2007; and sections
16 8, 12, 32, 35, 36, and 42, Legislative Bill 236, One Hundredth
17 Legislature, First Session, 2007, are repealed.

18 Sec. 91. The following sections are outright repealed:
19 Sections 71-1,135.03, 71-1,135.05, and 71-1,147.34, Reissue Revised
20 Statutes of Nebraska, as amended by sections 888, 873, and 987,
21 respectively, Legislative Bill 463, One Hundredth Legislature,
22 First Session, 2007; sections 71-1,195.03, 71-1,315, 71-1,316,
23 71-1,333, and 71-1,338, Reissue Revised Statutes of Nebraska,
24 as amended by sections 31, 43, 44, 45, and 49, respectively,
25 Legislative Bill 247, One Hundredth Legislature, First Session,

1 2007; section 71-1,147.33, Revised Statutes Cumulative Supplement,
2 2006, as amended by section 349, Legislative Bill 296, One
3 Hundredth Legislature, First Session, 2007, and section 986,
4 Legislative Bill 463, One Hundredth Legislature, First Session,
5 2007; and section 15, Legislative Bill 236, One Hundredth
6 Legislature, First Session, 2007.

7 Sec. 92. The following sections are outright repealed:
8 Sections 71-1,186.01 and 71-1,192, Reissue Revised Statutes of
9 Nebraska, and section 71-1,190.01, Reissue Revised Statutes of
10 Nebraska, as amended by section 356, Legislative Bill 296, One
11 Hundredth Legislature, First Session, 2007.

12 Sec. 93. Since an emergency exists, this act takes effect
13 when passed and approved according to law.